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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 773

An act to amend Sections 1103, 1107.5, 1108, 1110, 1113, 1155, 1808, 1809, 1900.5, 1905, 2010, 2011, 2112, 6014, 6018, 6019.1, 6020.5, 6518, 6519, 6615, 8014, 8018, 8019.1, 8020.5, 8518, 8519, 8615, 12535, 12539, 12540.1, 12550.5, 12628, 12629, 12635, 15678.4, 15678.10, 16915.5, 16954, 16960, 17350.5, 17355, 17356, 17552, and 17554.5 of, and to add Section 1905.1 to, the Corporations Code, to amend Sections 3126, 5758, and 5760 of the Financial Code, and to amend Sections 23153, 23332, 23335, and 23561 of, to add Sections 17937, 17947, and 17948.3 to, and to repeal Sections 17945, 17948.1, and 23334 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 1103 of the Corporations Code is amended to read:

1103. After approval of a merger by the board and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200), the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of outstanding shares of each class entitled to vote on the merger, that the principal terms of the agreement in the form attached were approved by that corporation by a vote of a number of shares of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, or that the merger agreement was entitled to be and was approved by the board alone under the provisions of Section 1201. If equity securities of a parent of a constituent corporation are to be issued in the merger, the officers' certificate of that constituent corporation shall state either that no vote of the shareholders of the parent was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 110 and subject to the provisions of Section 1108) and the several parties thereto shall be one corporation. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 2. Section 1107.5 of the Corporations Code is amended to read:

1107.5. (a) Upon merger pursuant to this chapter, a surviving domestic or foreign corporation or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign corporation or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 3. Section 1108 of the Corporations Code is amended to read:

1108. (a) The merger of any number of domestic corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect the merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a domestic corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter governing the merger of domestic corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and of Section 407 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) (with respect to any domestic constituent corporations), the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation, the agreement and the officers' certificate of each domestic or foreign constituent corporation shall be filed as provided in Section 1103, or the certificate of ownership shall be filed as provided in Section 1110, and thereupon, subject to subdivision (c) of Section 110, the merger shall be effective as to each domestic constituent corporation; and each foreign disappearing corporation that is qualified for the transaction of intrastate

business shall by virtue of the filing, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but, except as provided in subdivision (e), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached, which officers' certificates shall conform to the requirements of Section 1103.

(4) A certificate of ownership pursuant to Section 1110.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall, by virtue of the filing pursuant to subdivision (d), automatically surrender its right to transact intrastate business as of the date of filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

(f) The provisions of the last two sentences of Section 1101 and Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300) apply to the rights of the shareholders of any of the constituent corporations that are domestic corporations and of any domestic corporation that is a parent party of any foreign constituent corporation.

SEC. 4. Section 1110 of the Corporations Code is amended to read:

1110. (a) If a domestic corporation owns all the outstanding shares, or owns less than all the outstanding shares but at least 90 percent of the outstanding shares of each class, of a corporation or corporations,

domestic or foreign, the merger of the subsidiary corporation or corporations into the parent corporation or the merger into the subsidiary corporation of the parent corporation and any other subsidiary corporation or corporations, may be effected by a resolution or plan of merger adopted and approved by the board of the parent corporation and the filing of a certificate of ownership as provided in subdivision (e). The resolution or plan of merger shall provide for the merger and shall provide that the surviving corporation assumes all the liabilities of each disappearing corporation and shall include any other provisions required by this section.

(b) If the parent corporation owns less than all the outstanding shares but at least 90 percent of the outstanding shares of each class of the subsidiary corporation that is a party to the merger, the resolution or plan of merger also shall set forth the securities, cash, property, or rights to be issued, paid, delivered, or granted upon surrender of each outstanding share of the subsidiary corporation not owned by the parent corporation and the entire resolution or plan of merger as well as the consideration to be received for each share of the subsidiary corporation not owned by the parent corporation, shall be approved by the board of that subsidiary corporation.

(c) If the parent corporation is to be merged into one of its subsidiary corporations, the resolution or plan of merger also shall provide for the pro rata conversion of the outstanding shares of the parent corporation into shares of the surviving subsidiary corporation. In this case, the entire resolution or plan of merger shall be approved by the board of the surviving subsidiary corporation and, if the merger, but for the operation of this section, would be a merger reorganization (Section 181) the principal terms of which would be required to be approved by the outstanding shares (Section 152) of any class of the parent corporation pursuant to subdivision (d) of Section 1201, the principal terms of the resolution or plan of merger shall be approved by the outstanding shares (Section 152) of that same class of the parent corporation.

(d) In any merger pursuant to this section, the resolution or plan of merger may provide for the amendment of the articles of the surviving corporation to change its name, subject to Section 201, regardless of whether the name so adopted is the same as or similar to that of one of the disappearing corporations. The provision shall establish the wording of the amendment pursuant to paragraph (2) of subdivision (a) of Section 907 and the resolution or plan of merger shall not provide for the amendment of the articles of the surviving corporation other than to change its name.

(e) After the required approval or approvals of the resolution or plan of merger, a certificate of ownership consisting of an officers' certificate

of the parent corporation shall be filed, and a copy thereof for each domestic subsidiary corporation and qualified foreign disappearing subsidiary corporation which is a party to the merger shall also be filed. The certificate of ownership shall:

(1) Identify the parent and subsidiary corporation or corporations.

(2) Set forth the share ownership by the parent corporation of each subsidiary corporation as 100 percent of the outstanding shares or as at least 90 percent of the outstanding shares of each class, as the case may be.

(3) Set forth the resolution or plan of merger.

(4) Set forth approval of the resolution or plan of merger by the board of the parent corporation.

(5) Set forth other approvals of the resolution or plan of merger as required under subdivision (b) or (c), if applicable.

(f) Upon the filing of the certificate of ownership, the merger shall be effective and any amendment of the articles of the surviving corporation set forth in the certificate shall be effective.

(g) A merger pursuant to this section may be effected if the parent corporation is a foreign corporation and if at least one subsidiary corporation is a domestic corporation but in such a case the certificate of ownership prepared as in subdivision (e) or the document required by subdivision (d) of Section 1108 shall be filed as to each domestic and qualified foreign subsidiary corporation, but no filing shall be made as to the foreign parent corporation. No merger into or with a foreign corporation may be effected as provided by this section unless the laws of the state or place of its incorporation permit that action.

(h) In the event all of the outstanding shares of a subsidiary domestic corporation party to a merger effected under this section are not owned by the parent corporation immediately prior to the merger, the parent corporation shall, at least 20 days before the effective date of the merger, give notice to each shareholder of such subsidiary corporation that the merger will become effective on or after a specified date. The notice shall contain a copy of the resolution or plan of merger and the information required by subdivision (a) of Section 1301. The notice shall be sent by mail addressed to the shareholder at the address of the shareholder as it appears on the records of the corporation. The shareholder shall have the right to demand payment of cash for the shares of the shareholder pursuant to Chapter 13 (commencing with Section 1300).

(i) If an agreement of merger is entered into between a parent corporation and one or more of its subsidiary corporations and the share ownership requirements of subdivision (a) are met, the agreement of merger may be filed as a plan of merger with a certificate of ownership

in accordance with the requirements of this section, in which case Sections 1101, 1102, 1103, 1200, 1201, and 1202 shall not apply; or the agreement of merger may be filed pursuant to Section 1103, in which case this section shall not apply.

SEC. 5. Section 1113 of the Corporations Code is amended to read:

1113. (a) Any one or more corporations may merge with one or more other business entities (Section 174.5). One or more domestic corporations (Section 167) not organized under this division and one or more foreign corporations (Section 171) may be parties to the merger. Notwithstanding the provisions of this section, the merger of any number of corporations with any number of other business entities may be effected only if:

(1) In a merger in which a domestic corporation not organized under this division or a domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve, and shall be a party to, an agreement of merger. Other persons, including a parent party (Section 1200), may be parties to the agreement of merger. The board of each corporation which desires to merge, and, if required the shareholders, shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each party by those persons required to approve the merger by the laws under which it is organized. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party to the merger and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 900 and 907, to the articles of the surviving corporation, if applicable, to be effected by the merger. If any amendment changes the name of the surviving corporation, if applicable, the new name may be, subject to subdivision (b) of Section 201, the same as or similar to the name of a disappearing party to the merger.

(4) The manner of converting the shares of each constituent corporation into shares, interests, or other securities of the surviving party. If any shares of any constituent corporation are not to be converted solely into shares, interests or other securities of the surviving party, the agreement of merger shall state (i) the cash, rights, securities, or other property which the holders of those shares are to receive in exchange for the shares, which cash, rights, securities, or other property may be

in addition to or in lieu of shares, interests or other securities of the surviving party, or (ii) that the shares are canceled without consideration.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a public benefit corporation or a religious corporation is a party to the merger, Section 6019.1, or, if a mutual benefit corporation is a party to the merger, Section 8019.1, or, if a consumer cooperative corporation is a party to the merger, Section 12540.1, or, if a domestic limited partnership is a party to the merger, Section 15678.2, or, if a domestic partnership is a party to the merger, Section 16911, or, if a domestic limited liability company is a party to the merger, Section 17551.

(6) Any other details or provisions as are desired, including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

(c) Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a party to the merger or its parent, or a wholly owned subsidiary of either, in another constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally with respect to any distribution of cash, rights, securities, or other property. Notwithstanding paragraph (4) of subdivision (b), the nonredeemable common shares of a constituent corporation may be converted only into nonredeemable common shares of a surviving corporation or a parent party (Section 1200) or nonredeemable equity securities of a surviving party other than a corporation if another party to the merger or its parent owns, directly or indirectly, prior to the merger shares of that corporation representing more than 50 percent of the voting power of that corporation, unless all of the shareholders of the class consent and except as provided in Section 407.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger or the certificate of merger, as is applicable, if the amendment is approved by the board of each constituent corporation and, if the amendment changes any of the principal terms of the agreement, by the outstanding shares (Section 152), if required by Chapter 12 (commencing with Section 1200), in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, the agreement of merger as so amended shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further

approval by the outstanding shares (Section 152), at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) (1) If the surviving party is a corporation or a foreign corporation, or if a public benefit corporation (Section 5060), a mutual benefit corporation (Section 5059), a religious corporation (Section 5061), or a corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class and, if applicable, by that other person or persons whose approval is required, or that the merger agreement was entitled to be and was approved by the board alone (as provided in Section 1201, in the case of corporations subject to that section). If equity securities of a parent party (Section 1200) are to be issued in the merger, the officers' certificate of that controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign

constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of the constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger in the form attached or its principal terms, as required, were approved by a vote of the number of interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon filing of the agreement of merger with an officer's certificate of each constituent domestic and foreign corporation and a certificate of merger for each constituent other business entity, subject to subdivision (c) of Section 110 and subject to the provisions of subdivision (j), and the several parties thereto shall be one entity. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code. The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(2) If the surviving entity is an other business entity, and no public benefit corporation (Section 5060), mutual benefit corporation (Section

5059), religious corporation (Section 5061), or corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the parties to the merger shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each constituent domestic and foreign corporation by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary and by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact. The certificate of merger shall be signed by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth all of the following:

(A) The name, place of incorporation or organization, and the Secretary of State's file number, if any, of each party to the merger, separately identifying the disappearing parties and the surviving party.

(B) If the approval of the outstanding shares of a constituent corporation was required by Chapter 12 (commencing with Section 1200), a statement setting forth the total number of outstanding shares of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of shares of each class entitled to vote and the percentage vote required of each class.

(C) The future effective date or time, not more than 90 days subsequent to the date of filing of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(D) A statement, by each party to the merger which is a domestic corporation not organized under this division, a foreign corporation, or an other business entity, of the statutory or other basis under which that party is authorized by the laws under which it is organized to effect the merger.

(E) Any other information required to be stated in the certificate of merger by the laws under which each party to the merger is organized, including, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4.

(F) Any other details or provisions that may be desired.

Unless a future effective date or time is provided in a certificate of merger, in which event the merger shall be effective at that future effective date or time, a merger shall be effective upon the filing of the certificate of merger in the office of the Secretary of State and the several parties thereto shall be one entity. The surviving other business entity shall keep a copy of the agreement of merger at its principal place of business which, for purposes of this subdivision, shall be the office referred to in Section 17057 if a domestic limited liability company, at the business address specified in paragraph (5) of subdivision (a) of Section 17552 if a foreign limited liability company, at the office referred to in subdivision (a) of Section 16403 if a domestic general partnership, at the business address specified in subdivision (f) of Section 16911 if a foreign partnership, at the office referred to in subdivision (a) of Section 15614 if a domestic limited partnership, or at the business address specified in paragraph (5) of subdivision (a) of Section 15678.4 if a foreign limited partnership. Upon the request of a holder of equity securities of a party to the merger, a person with authority to do so on behalf of the surviving other business entity shall promptly deliver to that holder, a copy of the agreement of merger. A waiver by that holder of the rights provided in the foregoing sentence shall be unenforceable. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger in accordance with Section 1555 of the Insurance Code.

(h) (1) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force

in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger and the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger.

(2) For all purposes for a merger in which the surviving entity is a domestic other business entity and the filing of a certificate of merger is required by paragraph (2) of subdivision (g), a copy of the certificate of merger duly certified by the Secretary of State is conclusive evidence of the merger of the constituent corporations, either by themselves or together with the other parties to the merger, into the surviving other business entity.

(i) (1) Upon a merger pursuant to this section, the separate existences of the disappearing parties to the merger cease and the surviving party to the merger shall succeed, without other transfer, to all the rights and property of each of the disappearing parties to the merger and shall be subject to all the debts and liabilities of each in the same manner as if the surviving party to the merger had itself incurred them.

(2) All rights of creditors and all liens upon the property of each of the constituent corporations and other parties to the merger shall be preserved unimpaired, provided that those liens upon property of a disappearing party shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(3) Any action or proceeding pending by or against any disappearing corporation or disappearing party to the merger may be prosecuted to judgment, which shall bind the surviving party, or the surviving party may be proceeded against or substituted in its place.

(4) If a limited partnership or a general partnership is a party to the merger, nothing in this section is intended to affect the liability a general partner of a disappearing limited partnership or general partnership may have in connection with the debts and liabilities of the disappearing limited partnership or general partnership existing prior to the time the merger is effective.

(j) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivision (a) and this subdivision.

(2) If the surviving party is a domestic corporation or domestic other business entity, the merger proceedings with respect to that party and any domestic disappearing corporation shall conform to the provisions of this section. If the surviving party is a foreign corporation or foreign other business entity, then, subject to the requirements of subdivision

(c), and of Section 407 and Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300), and, if applicable, corresponding provisions of the Nonprofit Corporation Law or the Consumer Cooperative Corporation Law, with respect to any domestic constituent corporations, Chapter 13 (commencing with Section 17600) of Title 2.5 with respect to any domestic constituent limited liability companies, Article 6 (commencing with Section 16601) of Chapter 5 of Title 2 with respect to any domestic constituent general partnerships, and Article 7.6 (commencing with Section 15679.1) of Chapter 3 of Title 2 with respect to any domestic constituent limited partnerships, the merger proceedings may be in accordance with the laws of the state or place of incorporation or organization of the surviving party.

(3) If the surviving party is a domestic corporation or domestic other business entity, the certificate of merger or the agreement of merger with attachments shall be filed as provided in subdivision (g) and thereupon, subject to subdivision (c) of Section 110 or paragraph (2) of subdivision (g), as is applicable, the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity.

(4) If the surviving party is a foreign corporation or foreign other business entity, the merger shall become effective in accordance with the law of the jurisdiction in which the surviving party is organized, but, except as provided in paragraph (5), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of paragraph (1) of subdivision (g). If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which that domestic other business entity is organized, including subdivision (a) of Section 15678.4, subdivision (b) of Section 16915, or subdivision (a) of Section 17552, as is applicable, shall also be filed at the same time as the filing of the agreement of merger.

(5) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(6) In a merger described in paragraph (3) or (4), each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing pursuant to this subdivision, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business in this state. The filing of the agreement of merger or certificate of merger, as is applicable, pursuant to this subdivision, by a disappearing foreign other business entity registered for the transaction of intrastate business in this state shall, by virtue of that filing, subject to subdivision (c) of Section 110, automatically cancels the registration for that foreign other business entity, without the necessity of the filing of a certificate of cancellation.

SEC. 5.5. Section 1113 of the Corporations Code is amended to read:

1113. (a) Any one or more corporations may merge with one or more other business entities (Section 174.5). One or more domestic corporations (Section 167) not organized under this division and one or more foreign corporations (Section 171) may be parties to the merger. Notwithstanding the provisions of this section, the merger of any number of corporations with any number of other business entities may be effected only if:

(1) In a merger in which a domestic corporation not organized under this division or a domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve, and shall be a party to, an agreement of merger. Other persons, including a parent party (Section 1200), may be parties to the agreement of merger. The board of each corporation which desires to merge, and, if required the shareholders, shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each party by those persons required to approve the merger by the laws under which it is organized. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party to the merger and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 900 and 907, to the articles of the surviving corporation, if applicable, to be effected by the merger. If any amendment changes the name of the surviving corporation, if applicable, the new name may be, subject to subdivision (b) of Section 201, the same as or similar to the name of a disappearing party to the merger.

(4) The manner of converting the shares of each constituent corporation into shares, interests, or other securities of the surviving party. If any shares of any constituent corporation are not to be converted solely into shares, interests or other securities of the surviving party, the agreement of merger shall state (i) the cash, rights, securities, or other property which the holders of those shares are to receive in exchange for the shares, which cash, rights, securities, or other property may be in addition to or in lieu of shares, interests or other securities of the surviving party, or (ii) that the shares are canceled without consideration.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a public benefit corporation or a religious corporation is a party to the merger, Section 6019.1, or, if a mutual benefit corporation is a party to the merger, Section 8019.1, or, if a consumer cooperative corporation is a party to the merger, Section 12540.1, or, if a domestic limited partnership is a party to the merger, Section 15678.2 or 15911.12, or, if a domestic partnership is a party to the merger, Section 16911, or, if a domestic limited liability company is a party to the merger, Section 17551.

(6) Any other details or provisions as are desired, including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

(c) Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a party to the merger or its parent, or a wholly owned subsidiary of either, in another constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally with respect to any distribution of cash, rights, securities, or other property. Notwithstanding paragraph (4) of subdivision (b), the unredeemable common shares of a constituent corporation may be converted only into unredeemable common shares of a surviving corporation or a parent party (Section 1200) or unredeemable equity securities of a surviving party other than a corporation if another party to the merger or its parent owns, directly or indirectly, prior to the merger shares of that corporation representing more than 50 percent of the voting power of that corporation, unless all of the shareholders of the class consent and except as provided in Section 407.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger or the certificate of merger, as is applicable, if the amendment is approved by the board of each constituent corporation and, if the amendment changes any of the principal terms of the agreement, by the outstanding shares (Section 152), if required by Chapter 12 (commencing with Section

1200), in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, the agreement of merger as so amended shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the outstanding shares (Section 152), at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) (1) If the surviving party is a corporation or a foreign corporation, or if a public benefit corporation (Section 5060), a mutual benefit corporation (Section 5059), a religious corporation (Section 5061), or a corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class and, if applicable, by that other person or persons whose approval is required, or that the merger agreement was entitled to be and was approved by the board alone (as provided in Section 1201, in the case of corporations subject to that section). If equity securities of a parent party (Section 1200) are to be issued in the merger, the officers' certificate of that controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its

articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of the constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger in the form attached or its principal terms, as required, were approved by a vote of the number of interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or subdivision (a) of Section 15911.14, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon filing of the agreement of merger with an officer's certificate of each constituent domestic and foreign corporation and a certificate of merger for each constituent other business entity, subject to subdivision (c) of Section 110 and subject to the provisions of subdivision (j), and the several parties thereto shall be one entity. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party

to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code. The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(2) If the surviving entity is an other business entity, and no public benefit corporation (Section 5060), mutual benefit corporation (Section 5059), religious corporation (Section 5061), or corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the parties to the merger shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each constituent domestic and foreign corporation by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary and by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact. The certificate of merger shall be signed by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth all of the following:

(A) The name, place of incorporation or organization, and the Secretary of State's file number, if any, of each party to the merger, separately identifying the disappearing parties and the surviving party.

(B) If the approval of the outstanding shares of a constituent corporation was required by Chapter 12 (commencing with Section 1200), a statement setting forth the total number of outstanding shares of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of shares of each class entitled to vote and the percentage vote required of each class.

(C) The future effective date or time, not more than 90 days subsequent to the date of filing of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(D) A statement, by each party to the merger which is a domestic corporation not organized under this division, a foreign corporation, or an other business entity, of the statutory or other basis under which that party is authorized by the laws under which it is organized to effect the merger.

(E) Any other information required to be stated in the certificate of merger by the laws under which each party to the merger is organized, including, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or subdivision (a) of Section 15911.14.

(F) Any other details or provisions that may be desired.

Unless a future effective date or time is provided in a certificate of merger, in which event the merger shall be effective at that future effective date or time, a merger shall be effective upon the filing of the certificate of merger in the office of the Secretary of State and the several parties thereto shall be one entity. The surviving other business entity shall keep a copy of the agreement of merger at its principal place of business which, for purposes of this subdivision, shall be the office referred to in Section 17057 if a domestic limited liability company, at the business address specified in paragraph (5) of subdivision (a) of Section 17552 if a foreign limited liability company, at the office referred to in subdivision (a) of Section 16403 if a domestic general partnership, at the business address specified in subdivision (f) of Section 16911 if a foreign partnership, at the office referred to in subdivision (a) of Section 15614 or in subdivision (a) of Section 15901.14 if a domestic limited partnership, or at the business address specified in paragraph (5) of subdivision (a) of Section 15678.4 or paragraph (3) of subdivision (a) of Section 15909.02 if a foreign limited partnership. Upon the request of a holder of equity securities of a party to the merger, a person with authority to do so on behalf of the surviving other business entity shall

promptly deliver to that holder, a copy of the agreement of merger. A waiver by that holder of the rights provided in the foregoing sentence shall be unenforceable. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger in accordance with Section 1555 of the Insurance Code.

(h) (1) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger and the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger.

(2) For all purposes for a merger in which the surviving entity is a domestic other business entity and the filing of a certificate of merger is required by paragraph (2) of subdivision (g), a copy of the certificate of merger duly certified by the Secretary of State is conclusive evidence of the merger of the constituent corporations, either by themselves or together with the other parties to the merger, into the surviving other business entity.

(i) (1) Upon a merger pursuant to this section, the separate existences of the disappearing parties to the merger cease and the surviving party to the merger shall succeed, without other transfer, to all the rights and property of each of the disappearing parties to the merger and shall be subject to all the debts and liabilities of each in the same manner as if the surviving party to the merger had itself incurred them.

(2) All rights of creditors and all liens upon the property of each of the constituent corporations and other parties to the merger shall be preserved unimpaired, provided that those liens upon property of a disappearing party shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(3) Any action or proceeding pending by or against any disappearing corporation or disappearing party to the merger may be prosecuted to judgment, which shall bind the surviving party, or the surviving party may be proceeded against or substituted in its place.

(4) If a limited partnership or a general partnership is a party to the merger, nothing in this section is intended to affect the liability a general partner of a disappearing limited partnership or general partnership may have in connection with the debts and liabilities of the disappearing

limited partnership or general partnership existing prior to the time the merger is effective.

(j) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivision (a) and this subdivision.

(2) If the surviving party is a domestic corporation or domestic other business entity, the merger proceedings with respect to that party and any domestic disappearing corporation shall conform to the provisions of this section. If the surviving party is a foreign corporation or foreign other business entity, then, subject to the requirements of subdivision (c), and of Section 407 and Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300), and, if applicable, corresponding provisions of the Nonprofit Corporation Law or the Consumer Cooperative Corporation Law, with respect to any domestic constituent corporations, Chapter 13 (commencing with Section 17600) of Title 2.5 with respect to any domestic constituent limited liability companies, Article 6 (commencing with Section 16601) of Chapter 5 of Title 2 with respect to any domestic constituent general partnerships, and Article 7.6 (commencing with Section 15679.1) of Chapter 3, and Article 11.5 (commencing with Section 15911.20) of Chapter 5.5 of Title 2 with respect to any domestic constituent limited partnerships, the merger proceedings may be in accordance with the laws of the state or place of incorporation or organization of the surviving party.

(3) If the surviving party is a domestic corporation or domestic other business entity, the certificate of merger or the agreement of merger with attachments shall be filed as provided in subdivision (g) and thereupon, subject to subdivision (c) of Section 110 or paragraph (2) of subdivision (g), as is applicable, the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity.

(4) If the surviving party is a foreign corporation or foreign other business entity, the merger shall become effective in accordance with the law of the jurisdiction in which the surviving party is organized, but, except as provided in paragraph (5), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of paragraph (1) of subdivision (g). If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of

merger required by the laws under which that domestic other business entity is organized, including subdivision (a) of Section 15678.4, subdivision (a) of Section 15911.14, subdivision (b) of Section 16915, or subdivision (a) of Section 17552, as is applicable, shall also be filed at the same time as the filing of the agreement of merger.

(5) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(6) In a merger described in paragraph (3) or (4), each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing pursuant to this subdivision, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business in this state. The filing of the agreement of merger or certificate of merger, as is applicable, pursuant to this subdivision, by a disappearing foreign other business entity registered for the transaction of intrastate business in this state shall, by virtue of that filing, subject to subdivision (c) of Section 110, automatically cancels the registration for that foreign other business entity, without the necessity of the filing of a certificate of cancellation.

SEC. 6. Section 1155 of the Corporations Code is amended to read:

1155. (a) To convert a corporation:

(1) If the corporation is converting into a domestic limited partnership, a statement of conversion shall be completed on the certificate of limited partnership for the converted entity.

(2) If the corporation is converting into a domestic partnership, a statement of conversion shall be completed on the statement of partnership authority for the converted entity, or if no statement of partnership authority is filed then a certificate of conversion shall be filed separately.

(3) If the corporation is converting into a domestic limited liability company, a statement of conversion shall be completed on the articles of organization for the converted entity.

(b) Any statement or certificate of conversion of a converting corporation shall be executed and acknowledged by those officers of the converting corporation as would be required to sign an officers' certificate (Section 173), and shall set forth all of the following:

(1) The name and the Secretary of State's file number of the converting corporation.

(2) A statement of the total number of outstanding shares of each class entitled to vote on the conversion, that the principal terms of the

plan of conversion were approved by a vote of the number of shares of each class which equaled or exceeded the vote required under Section 1152, specifying each class entitled to vote and the percentage vote required of each class.

(3) The name, form, and jurisdiction of organization of the converted entity.

(c) For the purposes of this chapter, the certificate of conversion shall be on a form prescribed by the Secretary of State.

(d) The filing with the Secretary of State of a statement of conversion on an organizational document or a certificate of conversion as set forth in subdivision (a) shall have the effect of the filing of a certificate of dissolution by the converting corporation and no converting corporation that has made the filing is required to file a certificate of election under Section 1901 or a certificate of dissolution under Section 1905 as a result of that conversion.

(e) The Secretary of State shall notify the Franchise Tax Board and shall notify the Franchise Tax Board of the conversion. Upon the effectiveness of a conversion pursuant to this chapter, a converted entity that is a domestic partnership, domestic limited partnership or domestic limited liability company shall be deemed to have assumed the liability of the converting corporation (1) to prepare and file or cause to be prepared and filed all tax and information returns otherwise required of the converting corporation under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) and (2) to pay any tax liability determined to be due pursuant to that law.

SEC. 7. Section 1808 of the Corporations Code is amended to read:

1808. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 1805 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, and that its known debts and liabilities have been paid or adequately provided for, or that those debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and

address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and shareholders.

(4) That the corporation is dissolved.

The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(b) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

SEC. 8. Section 1809 of the Corporations Code is amended to read:

1809. Whenever a corporation is dissolved or its existence forfeited by order, decree or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed in the office of the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 9. Section 1900.5 of the Corporations Code is amended to read:

1900.5. (a) Notwithstanding any other provision of this division, when a corporation has not issued shares, a majority of the directors, or, if no directors have been named in the articles or been elected, the incorporator or a majority of the incorporators may sign and verify a certificate of dissolution stating the following:

(1) That the certificate of dissolution is being filed within 12 months from the date the articles of incorporation were filed.

(2) That the corporation does not have any debts or other liabilities, except as provided in paragraph (3).

(3) That the tax liability will be satisfied on a taxes paid basis or that a person or corporation or other business entity assumes the tax liability, if any, of the dissolving corporation and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.

(4) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(5) That the corporation has not conducted any business from the time of the filing of the articles of incorporation.

(6) That the known assets of the corporation remaining after payment of, or adequately providing for, known debts and liabilities have been distributed to the persons entitled thereto or that the corporation acquired no known assets, as the case may be.

(7) That a majority of the directors, or, if no directors have been named in the articles or been elected, the incorporator or a majority of the incorporators authorized the dissolution and elected to dissolve the corporation.

(8) That the corporation has not issued any shares, and if the corporation has received payments for shares from investors, those payments have been returned to those investors.

(9) That the corporation is dissolved.

(b) A certificate of dissolution signed and verified pursuant to subdivision (a) shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

(c) Upon filing a certificate of dissolution pursuant to subdivision (b), a corporation shall be dissolved and its powers, rights, and privileges shall cease.

SEC. 10. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or any other information that may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(5) If no certificate of election is to be filed pursuant to subdivision (c) of Section 1901, that the election to dissolve was made by the vote of all the outstanding shares.

(6) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The certificate of dissolution shall be filed with the Secretary of State and thereupon the corporate powers, rights, and privileges of the corporation shall cease. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 11. Section 1905.1 is added to the Corporations Code, to read:

1905.1. If a corporation has filed a certificate of dissolution with the Secretary of State on or after January 1, 1992, and before the effective date of the act adding this section, pursuant to Section 1905, prior to its amendment by the act adding this section, and the Franchise Tax Board has not, as of that effective date, made the determination required by subdivision (c) of Section 1905, prior to its amendment by the act adding this section, then the corporation shall be dissolved as of the date of filing the certificate of dissolution and thereupon its corporate existence shall cease.

SEC. 12. Section 2010 of the Corporations Code is amended to read:

2010. (a) A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it and enabling it to collect and discharge obligations, dispose of and convey its property and collect and divide its assets, but not for the purpose of continuing business except so far as necessary for the winding up thereof.

(b) No action or proceeding to which a corporation is a party abates by the dissolution of the corporation or by reason of proceedings for winding up and dissolution thereof.

(c) Any assets inadvertently or otherwise omitted from the winding up continue in the dissolved corporation for the benefit of the persons entitled thereto upon dissolution of the corporation and on realization shall be distributed accordingly.

SEC. 13. Section 2011 of the Corporations Code is amended to read:

2011. (a) (1) Causes of action against a dissolved corporation, whether arising before or after the dissolution of the corporation, may be enforced against any of the following:

(A) Against the dissolved corporation, to the extent of its undistributed assets, including, without limitation, any insurance assets held by the corporation that may be available to satisfy claims.

(B) If any of the assets of the dissolved corporation have been distributed to shareholders, against shareholders of the dissolved corporation to the extent of their pro rata share of the claim or to the

extent of the corporate assets distributed to them upon dissolution of the corporation, whichever is less.

A shareholder's total liability under this section may not exceed the total amount of assets of the dissolved corporation distributed to the shareholder upon dissolution of the corporation.

(2) Except as set forth in subdivision (c), all causes of action against a shareholder of a dissolved corporation arising under this section are extinguished unless the claimant commences a proceeding to enforce the cause of action against that shareholder of a dissolved corporation prior to the earlier of the following:

(A) The expiration of the statute of limitations applicable to the cause of action.

(B) Four years after the effective date of the dissolution of the corporation.

(3) As a matter of procedure only, and not for purposes of determining liability, shareholders of the dissolved corporation may be sued in the corporate name of the corporation upon any cause of action against the corporation. This section does not affect the rights of the corporation or its creditors under Section 2009, or the rights, if any, of creditors under the Uniform Fraudulent Transfer Act, which may arise against the shareholders of a corporation.

(4) This subdivision applies to corporations dissolved on and after January 1, 1992. Corporations dissolved prior to that date are subject to the law in effect prior to that date.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State.

(c) Every such corporation shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its shareholders or other persons having any equity or other interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided

in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

(e) For purposes of Article 4 (commencing with Section 19071) of Chapter 4 of Part 10.2 of Division 2 of the Revenue and Taxation Code, the liability described in this section shall be considered a liability at law with respect to a dissolved corporation.

SEC. 14. Section 2112 of the Corporations Code is amended to read:

2112. (a) Subject to Section 2113, a foreign corporation which has qualified to transact intrastate business may surrender its right to engage in that business within this state by filing a certificate of surrender signed by a corporate officer stating:

(1) The name of the corporation as shown on the records of the Secretary of State, and the state or place of incorporation or organization.

(2) That it revokes its designation of agent for service of process.

(3) That it surrenders its authority to transact intrastate business.

(4) That it consents that process against it in any action upon any liability or obligation incurred within this state prior to the filing of the certificate of withdrawal may be served upon the Secretary of State.

(5) A post office address to which the Secretary of State may mail a copy of any process against the corporation that is served upon the Secretary of State, which address or the name to which the process should be sent may be changed from time to time by filing a statement signed by a corporate officer stating the new address or name or both.

(6) Except in the case of a foreign association, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The Secretary of State shall notify the Franchise Tax Board of the surrender.

SEC. 15. Section 6014 of the Corporations Code is amended to read:

6014. After approval of a merger by the board and any approval by the members (Section 5034) or other person or persons required by Section 6012, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, identifying any other person or persons whose approval is required, and stating that the principal terms of the agreement in the form attached were duly approved by the required vote of the members and (if applicable) such other person or persons. The merger

and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 5008 and subject to the provisions of Section 6018) and the several parties thereto shall be one surviving corporation. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 16. Section 6018 of the Corporations Code is amended to read:

6018. (a) Subject to the provisions of Section 6010, the merger of any number of corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect the merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a public benefit corporation or a religious corporation, the merger proceedings with respect to that corporation and any disappearing corporation shall conform to the provisions of this chapter governing the merger of corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 6012, the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a public benefit corporation or a religious corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 6014 and thereupon, subject to subdivision (c) of Section 5008, the merger shall be effective as to each corporation; and each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate, or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate, or other document filed by the surviving corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached, which officers' certificates shall conform to the requirements of Section 6014.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (d) surrender its right to transact intrastate business as of the date of filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

SEC. 17. Section 6019.1 of the Corporations Code is amended to read:

6019.1. (a) Subject to the provisions of Sections 6010 and 9640, any one or more corporations may merge with one or more other business entities (Section 5063.5). One or more other domestic corporations and foreign corporations (Section 5053) may be parties to the merger. Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve an agreement of merger. The board and the members (Section 5034) of each corporation which desires to merge, and each other person or persons, if any, whose approval of an amendment of the articles of that corporation is required by the articles or bylaws shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each other party by those persons authorized or required to approve the merger by the laws under which it is organized. The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section 5064.5), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 5810 and 5816, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivision (b) of Section 5122 and subdivision (b) of Section 9122, the same as, or similar to, the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party; and, if any memberships of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, the cash, rights, securities, or other property which the holders of those memberships are to receive in exchange for the memberships, which cash, rights, securities, or other property may be in addition to, or in lieu of, shares, memberships, interests, or other securities of the surviving corporation or surviving other business entity.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2, or 15911.12, if a domestic general partnership is a party to the merger, subdivision (a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(d) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 5034) or other persons, at any time before the merger is effective.

(e) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president or a vice president, and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(f) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of

each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class, if any, entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class entitled to vote, if any, which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and, if applicable, by that other person or persons whose approval is required.

If equity securities of a parent party (Section 5064.5) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (h). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and also by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and also by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party

is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of a constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger or its principal terms, as required, were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or 15911.14, if a domestic general partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(g) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger, and the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(h) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (f) and this subdivision.

(2) Subject to subdivision (c) of Section 5008 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (f).

(3) If the surviving party is a foreign corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of

effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (f).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4 or 15911.14, subdivision (b) of Section 16915, or subdivision (a) of Section 17552, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (f) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (f) automatically has the effect of a cancellation of registration for that foreign other business entity as of the date of filing in this state or, if later, the effective date of the merger, without the necessity of the filing of a certificate of cancellation.

SEC. 17.5. Section 6019.1 of the Corporations Code is amended to read:

6019.1. (a) Subject to the provisions of Sections 6010 and 9640, any one or more corporations may merge with one or more other business entities (Section 5063.5). One or more other domestic corporations and foreign corporations (Section 5053) may be parties to the merger. Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve an agreement of merger. The board and the members (Section 5034) of each corporation which desires to merge, and each other person or persons, if any, whose approval of an amendment of the articles of that corporation is required by the articles or bylaws shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each other party by those persons authorized or required to approve the merger by the laws under which it is organized. The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section 5064.5), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 5810 and 5816, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivision (b) of Section 5122 and subdivision (b) of Section 9122, the same as, or similar to, the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party; and, if any memberships of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, the cash, rights, securities, or other property which the holders of those memberships are to receive in exchange for the memberships, which cash, rights, securities, or other property may be in addition to, or in lieu of, shares, memberships, interests, or other securities of the surviving corporation or surviving other business entity.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2 or 15911.12, if a domestic general partnership is a party to the merger, subdivision (a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same manner as the original agreement of merger. If the agreement of merger

as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(d) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 5034) or other persons, at any time before the merger is effective.

(e) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president or a vice president, and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(f) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class, if any, entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class entitled to vote, if any, which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and, if applicable, by that other person or persons whose approval is required.

If equity securities of a parent party (Section 5064.5) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (h). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement)

and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and also by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and also by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of a constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger or its principal terms, as required, were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or 15911.14, if a domestic general partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(g) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance

of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger, and the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(h) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (f) and this subdivision.

(2) Subject to subdivision (c) of Section 5008 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (f).

(3) If the surviving party is a foreign corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (f).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4 or 15911.14, subdivision (b) of Section 16915, or subdivision (a) of Section 17552, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (f) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (f) automatically has the effect of a cancellation of registration for that foreign other business entity as of the date of filing in this state or, if later, the effective date

of the merger, without the necessity of the filing of a certificate of cancellation.

SEC. 18. Section 6020.5 of the Corporations Code is amended to read:

6020.5. (a) Upon merger pursuant to this chapter, a surviving domestic or foreign corporation or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign corporation or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 19. Section 6518 of the Corporations Code is amended to read:

6518. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 6515 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code and that its known debts and liabilities have been paid or adequately provided for, or that those debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members.

(4) That the corporation is dissolved.

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

SEC. 20. Section 6519 of the Corporations Code is amended to read:

6519. Whenever a corporation is dissolved or its existence forfeited by order, decree or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 21. Section 6615 of the Corporations Code is amended to read:

6615. (a) When a corporation has been completely wound up without court proceedings, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That the corporation is dissolved.

(4) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) One of the following documents issued by the Attorney General shall be attached to the certificate of dissolution:

(1) A written waiver of objections to the distribution of the corporation's assets pursuant to subdivision (c) of Section 6716.

(2) A written confirmation that the corporation has no assets.

(c) The certificate of dissolution and attachment described in subdivision (b) shall be filed with the Secretary of State who shall not accept a certificate of dissolution for filing without this attachment. The corporate existence shall cease upon the acceptance of the filing of the certificate of dissolution and attachment by the Secretary of State, except for the purpose of further winding up if needed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 22. Section 8014 of the Corporations Code is amended to read:

8014. After approval of a merger by the board and any approval by the members (Section 5034) required by Section 8012, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, identifying any other person or persons whose approval is required, and that the principal terms of the agreement in the form attached were duly approved by the required vote of the members and, if applicable, any other person or persons. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 5008 and subject to the provisions of Section 8018) and the several parties thereto shall be one corporation. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 23. Section 8018 of the Corporations Code is amended to read:

8018. (a) Subject to the provisions of Section 8010, the merger of any number of corporations with any number of foreign corporations, foreign business corporations or domestic corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect the merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a mutual benefit corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter and other applicable laws of this state, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 8012 the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a mutual benefit corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 8014 and thereupon, subject to

subdivision (c) of Section 5008, the merger shall be effective as to each corporation; and each foreign disappearing corporation that is qualified for the transaction of intrastate business shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, or foreign business corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate, or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate, or other document filed by the surviving corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached, which officers' certificates shall conform to the requirements of Section 8014.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (d) surrender its right to transact intrastate business as of the date of filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

SEC. 24. Section 8019.1 of the Corporations Code is amended to read:

8019.1. (a) Subject to the provisions of Section 8010, any one or more corporations may merge with one or more other business entities (Section 5063.5). One or more other domestic corporations, foreign corporations (Sections 5053), and foreign business corporations (Section 5052) may be parties to the merger. Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation or foreign business corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve an agreement of merger. The board and the members (Section 5034) of each corporation which desires to merge, and each other person or persons, if any, whose approval of an amendment of the articles of that corporation is required by the articles or bylaws shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each other constituent party by those persons authorized or required to approve the merger by the laws under which it is organized. The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section 5064.5), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 7810 and 7816, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivisions (b) and (c) of Section 7122, the same as or similar to the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships or securities of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party; and, if any memberships or securities of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, cash, rights, securities, or other property which the holders of those memberships or securities are to receive in exchange for the memberships or securities, which cash, rights, securities, or other property may be in addition to or in lieu of shares, memberships, interests, or other securities of the surviving party.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2, or, if a domestic general partnership is a party to the merger, subdivision

(a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a party to the merger or its parent or a wholly owned subsidiary of either in another constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights, or securities unless (i) all members of the class consent or (ii) the commissioner has approved the terms and conditions of the transaction and the fairness of those terms pursuant to Section 25142.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 5034) or other persons, at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president, or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic corporation, foreign corporation, and foreign business corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote required of each class, and, if applicable, by such other person or persons whose approval is required.

If equity securities of a parent party (Section 5064.5) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the

parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (i). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of a constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4, if a domestic general

partnership is a party to the merger, subdivision (b) of Section 16915 and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(h) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger, and of the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(i) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (g) and this subdivision.

(2) Subject to subdivision (c) of Section 5008 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (g).

(3) If the surviving party is a foreign corporation or foreign business corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation or foreign business corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (g).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4, subdivision (b) of Section 16915, or subdivision (a) of Section 17522, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (g) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (g) automatically has the effect of a cancellation of registration for that foreign other business entity as of the date of filing in this state or, if later, the effective date of the merger, without the necessity of the filing of a certificate of cancellation.

SEC. 24.5. Section 8019.1 of the Corporations Code is amended to read:

8019.1. (a) Subject to the provisions of Section 8010, any one or more corporations may merge with one or more other business entities (Section 5063.5). One or more other domestic corporations, foreign corporations (Sections 5053), and foreign business corporations (Section 5052) may be parties to the merger. Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation or foreign business corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve an agreement of merger. The board and the members (Section 5034) of each corporation which desires to merge, and each other person or persons, if any, whose approval of an amendment of the articles of that corporation is required by the articles or bylaws shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each other constituent party by those persons authorized or required to approve the merger by the laws under which it is organized. The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section

5064.5), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 7810 and 7816, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivisions (b) and (c) of Section 7122, the same as or similar to the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships or securities of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party; and, if any memberships or securities of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, cash, rights, securities, or other property which the holders of those memberships or securities are to receive in exchange for the memberships or securities, which cash, rights, securities, or other property may be in addition to or in lieu of shares, memberships, interests, or other securities of the surviving party.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2 or 15911.12, or, if a domestic general partnership is a party to the merger, subdivision (a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a party to the merger or its parent or a wholly owned subsidiary of either in another constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights, or securities unless (i) all members of the class consent or (ii) the commissioner has approved the terms and conditions of the transaction and the fairness of those terms pursuant to Section 25142.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 5034) or other persons, at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president, or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic corporation, foreign corporation, and foreign business corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote required of each class, and, if applicable, by such other person or persons whose approval is required.

If equity securities of a parent party (Section 5064.5) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (i). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent

general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of a constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or 15911.14, if a domestic general partnership is a party to the merger, subdivision (b) of Section 16915 and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(h) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger, and of the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(i) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (g) and this subdivision.

(2) Subject to subdivision (c) of Section 5008 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (g).

(3) If the surviving party is a foreign corporation or foreign business corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation or foreign business corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (g).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4 or 15911.14, subdivision (b) of Section 16915, or subdivision (a) of Section 17522, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (g) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (g) automatically has the effect of a cancellation of registration for that foreign other business entity as of the date of filing in this state or, if later, the effective date of the merger, without the necessity of the filing of a certificate of cancellation.

SEC. 25. Section 8020.5 of the Corporations Code is amended to read:

8020.5. (a) Upon merger pursuant to this chapter, a surviving domestic or foreign corporation or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign corporation or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 26. Section 8518 of the Corporations Code is amended to read:

8518. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 8515 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code and that its known debts and liabilities have been paid or adequately provided for, or that those debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members.

(4) That the corporation is dissolved.

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

SEC. 27. Section 8519 of the Corporations Code is amended to read:

8519. Whenever a corporation is dissolved or its existence forfeited by order, decree or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 28. Section 8615 of the Corporations Code is amended to read:

8615. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(5) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 29. Section 12535 of the Corporations Code is amended to read:

12535. After approval of a merger by the board and any approval by the members under Section 12533, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, and that the principal terms of the agreement in the form attached were duly approved by the required vote of the members. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 12214 and subject to the provisions of Section 12539) and the several parties thereto shall be one corporation. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 30. Section 12539 of the Corporations Code is amended to read:

12539. (a) Subject to the provisions of Section 12530, the merger of any number of corporations with any number of foreign corporations, foreign business corporations, or domestic corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect the merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a cooperative corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter and other applicable laws of this state, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 12533, the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a cooperative corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 12535 and thereupon, subject to subdivision (c) of Section 12214, the merger shall be effective as to each corporation; and each foreign disappearing corporation that is qualified for the transaction of intrastate business shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in the foreign jurisdiction

upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate, or other document filed by the surviving corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate, or other document filed by the surviving corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (d) surrender its right to transact intrastate business as of the date of the filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

SEC. 31. Section 12540.1 of the Corporations Code is amended to read:

12540.1. (a) Any one or more corporations may merge with one or more other business entities (Section 12242.5). Subject to the provisions of Section 12530, one or more other domestic corporations or foreign corporations (Section 12237) may be parties to the merger.

Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation, other domestic corporation, foreign corporation, and other business entity which desires to merge shall approve an agreement of merger. The board and the members of each corporation which desires to merge shall approve (Sections 12222 and 12224) the

agreement of merger. The agreement of merger shall be approved on behalf of each other constituent party by those persons authorized or required to approve the merger by the laws under which it is organized.

The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section 12242.6), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 12500 and 12507, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivisions (b) and (c) of Section 12302, the same as, or similar to, the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships or securities of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party and, if any memberships or securities of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, the cash, rights, securities, or other property which the holders of those memberships or securities are to receive in exchange for the memberships or securities, which cash, rights, securities, or other property may be in addition to or in lieu of shares, memberships, interests, or other securities of the surviving party.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2, or, if a domestic general partnership is a party to the merger, subdivision (a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a party to the merger or its parent or a wholly owned subsidiary of either in another constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights, or securities unless (i) all members of the class consent or (ii) the commissioner has approved the terms and conditions of the transaction and the fairness of those terms pursuant to Section 25142.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same

manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 12224), at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president, or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and, if applicable, by that other person or persons whose approval is required.

If equity securities of a parent party (Section 12242.6) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (i). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement)

and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent general partnership or foreign constituent limited liability company by one or more managers and by each foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of the constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger or its principal terms, as required, were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4, if a domestic general partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(h) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance of the conditions necessary to the adoption of any

amendment to the articles, if applicable, contained in the agreement of merger, and of the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(i) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (g) and this subdivision.

(2) Subject to subdivision (c) of Section 12214 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (g).

(3) If the surviving party is a foreign corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (g).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4, subdivision (b) of Section 16915 or subdivision (a) of Section 17552, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (g) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (g) automatically has the effect of a cancellation of registration for that foreign other

business entity without the necessity of the filing of a certificate of cancellation.

SEC. 31.5. Section 12540.1 of the Corporations Code is amended to read:

12540.1. (a) Any one or more corporations may merge with one or more other business entities (Section 12242.5). Subject to the provisions of Section 12530, one or more other domestic corporations or foreign corporations (Section 12237) may be parties to the merger.

Notwithstanding the provisions of this section, such a merger may be effected only if:

(1) In a merger in which a domestic corporation or domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation, other domestic corporation, foreign corporation, and other business entity which desires to merge shall approve an agreement of merger. The board and the members of each corporation which desires to merge shall approve (Sections 12222 and 12224) the agreement of merger. The agreement of merger shall be approved on behalf of each other constituent party by those persons authorized or required to approve the merger by the laws under which it is organized.

The parties desiring to merge shall be parties to the agreement of merger and other persons, including a parent party (Section 12242.6), may be parties to the agreement of merger. The agreement of merger shall state all of the following:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 12500 and 12507, to the articles of the surviving corporation, if applicable, to be effected by the merger. The name of the surviving corporation may be, subject to subdivisions (b) and (c) of Section 12302, the same as, or similar to, the name of a disappearing party to the merger.

(4) The manner, if any, of converting the memberships or securities of each of the constituent corporations into shares, memberships, interests, or other securities of the surviving party and, if any memberships or securities of any of the constituent corporations are not to be converted solely into shares, memberships, interests, or other securities of the surviving party, the cash, rights, securities, or other property which the holders of those memberships or securities are to

receive in exchange for the memberships or securities, which cash, rights, securities, or other property may be in addition to or in lieu of shares, memberships, interests, or other securities of the surviving party.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.2 or 15911.12, or, if a domestic general partnership is a party to the merger, subdivision (a) of Section 16911, or, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17551.

(6) Any other details or provisions as are desired.

(c) Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a party to the merger or its parent or a wholly owned subsidiary of either in another constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights, or securities unless (i) all members of the class consent or (ii) the commissioner has approved the terms and conditions of the transaction and the fairness of those terms pursuant to Section 25142.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger if the amendment is approved by each constituent corporation in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, as so amended it shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the members (Section 12224), at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president, or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) After required approvals of the merger by each constituent corporation and each other party to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by a vote of a number of shares or membership interests of

each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and, if applicable, by that other person or persons whose approval is required.

If equity securities of a parent party (Section 12242.6) are to be issued in the merger, the officers' certificate or certificate of merger of the controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon the filing of the agreement of merger, subject to the provisions of subdivision (i). If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code.

In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent general partnership or foreign constituent limited liability company by one or more managers and by each foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed such officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for such party the provision of law or other basis for the authority of the signing persons.

The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of the constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger or its principal terms, as required, were

approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 or 15911.14, if a domestic general partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger.

The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(h) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger, the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger, and of the merger of the constituent corporations, either by themselves or together with other constituent parties, into the surviving party to the merger.

(i) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivisions (a) and (g) and this subdivision.

(2) Subject to subdivision (c) of Section 12214 and paragraph (3), the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity upon filing of the agreement of merger with attachments as provided in subdivision (g).

(3) If the surviving party is a foreign corporation or foreign other business entity, except as provided in paragraph (4), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of subdivision (g).

If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which each domestic other business entity is organized, including subdivision (a) of Section 15678.4 or 15911.14, subdivision (b) of Section 16915 or subdivision (a) of Section 17552, if applicable, shall also be filed at the same time as the filing of the agreement of merger.

(4) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(5) Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (g) surrender its right to transact intrastate business as of the date of filing in this state or, if later, the effective date of the merger. With respect to each foreign disappearing other business entity previously registered for the transaction of intrastate business in this state, the filing of the agreement of merger pursuant to subdivision (g) automatically has the effect of a cancellation of registration for that foreign other business entity without the necessity of the filing of a certificate of cancellation.

SEC. 32. Section 12550.5 of the Corporations Code is amended to read:

12550.5. (a) Upon merger pursuant to this chapter, a surviving domestic or foreign corporation or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign corporation or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 33. Section 12628 of the Corporations Code is amended to read:

12628. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 12625 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code and that its known debts and liabilities have been paid or adequately provided for, or that those debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person, or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members.

(4) That the corporation is dissolved.

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

SEC. 34. Section 12629 of the Corporations Code is amended to read:

12629. Whenever a corporation is dissolved or its existence forfeited by order, decree, or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 35. Section 12635 of the Corporations Code is amended to read:

12635. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(5) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed. The Secretary of State shall notify the Franchise Tax Board of the dissolution.

SEC. 36. Section 15678.4 of the Corporations Code is amended to read:

15678.4. (a) If the surviving entity is a limited partnership or an other business entity (other than a corporation in a merger in which a domestic corporation is a constituent party), after approval of a merger by the constituent limited partnerships and any constituent other business entities, the constituent limited partnerships and constituent other business entities shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in the certificate of limited partnership of the domestic constituent limited partnership) and by each foreign constituent limited partnership by one or more general partners, and by each constituent other business entity by those persons required to execute the certificate of merger by the laws under which the constituent other business entity is organized. The certificate of merger shall set forth all of the following:

(1) The names and the Secretary of State's file numbers, if any, of each of the constituent limited partnerships and constituent other business entities, separately identifying the disappearing limited partnerships and disappearing other business entities and the surviving limited partnership or surviving other business entity.

(2) If a vote of the limited partners was required under Section 15678.2, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of interests of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class.

(3) If the surviving entity is a limited partnership and not an other business entity, any change required to the information set forth in the certificate of limited partnership of the surviving limited partnership resulting from the merger, including any change in the name of the surviving limited partnership resulting from the merger. The filing of a certificate of merger setting forth any such changes to the certificate of limited partnership of the surviving limited partnership shall have the effect of the filing of a certificate of amendment by the surviving limited partnership, and the surviving limited partnership need not file a certificate of amendment under Section 15622 to reflect those changes.

(4) The future effective date or time (which shall be a date or time certain not more than 90 days subsequent to the date of filing) of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(5) If the surviving entity is an other business entity or a foreign limited partnership, the full name, type of entity, legal jurisdiction in which the entity was organized and by whose laws its internal affairs are governed, and the address of the principal place of business of the entity.

(6) Any other information required to be stated in the certificate of merger by the laws under which each constituent other business entity is organized, including, if a domestic corporation is a party to the merger, paragraph (2) of subdivision (g) of Section 1113.

If the surviving entity is a foreign limited partnership in a merger in which a domestic corporation is a disappearing other business entity, a copy of the agreement of merger and attachments as required under paragraph (1) of subdivision (g) of Section 1113 shall be filed at the same time as the filing of the certificate of merger.

(b) If the surviving entity is a domestic corporation or a foreign corporation in a merger in which a domestic corporation is a constituent party, after approval of the merger by the constituent limited partnerships

and constituent other business entities, the surviving corporation shall file in the office of the Secretary of State a copy of the agreement of merger and attachments required under paragraph (1) of subdivision (g) of Section 1113. The certificate of merger shall be executed and acknowledged by each domestic constituent limited partnership by all general partners, unless a lesser number is provided in the certificate of limited partnership of the domestic constituent limited partnership.

(c) A certificate of merger or the agreement of merger, as is applicable under subdivision (a) or (b), shall have the effect of the filing of a certificate of cancellation for each disappearing limited partnership, and no disappearing limited partnership need file a certificate of dissolution or a certificate of cancellation under Section 15623 as a result of the merger.

(d) If a disappearing other business entity is a foreign corporation qualified to transact intrastate business in this state, by the filing of the certificate of merger or agreement of merger, as is applicable, the foreign corporation shall automatically surrender its right to transact intrastate business.

SEC. 37. Section 15678.10 of the Corporations Code is amended to read:

15678.10. (a) Upon merger pursuant to this article, a surviving domestic or foreign limited partnership or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign limited partnership or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) The Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 38. Section 16915.5 of the Corporations Code is amended to read:

16915.5. (a) Upon merger pursuant to this article, a surviving domestic or foreign partnership or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign partnership or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 39. Section 16954 of the Corporations Code is amended to read:

16954. (a) The registration of a registered limited liability partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate or to add information to the registration or amended registration.

(b) If a registered limited liability partnership ceases to be a registered limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a registered limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(c) An amendment pursuant to subdivision (a) and a notice pursuant to subdivision (b) shall each be accompanied by a fee as set forth in subdivision (c) of Section 12189 of the Government Code.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and a notice under subdivision (b).

(e) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

SEC. 40. Section 16960 of the Corporations Code is amended to read:

16960. (a) The registration of a foreign limited partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes

inaccurate, to add information to the registration or amended registration or to withdraw its registration as a foreign limited liability partnership.

(b) If a foreign limited partnership ceases to be a limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a foreign limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of the Revenue and Taxation Code.

(c) A foreign limited liability partnership that is, but is no longer required to be, registered under Section 16959 may withdraw its registration by filing a notice with the Secretary of State, executed by one or more partners authorized to execute the notice.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and notices under subdivisions (b) and (c).

(e) The filing of amended registration forms pursuant to subdivision (a) and a notice pursuant to subdivision (b) or (c) shall each be accompanied by a fee as set forth in subdivision (d) of Section 12189 of the Government Code.

(f) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

SEC. 41. Section 17350.5 of the Corporations Code is amended to read:

17350.5. (a) Notwithstanding any other provision of this division, if a domestic limited liability company has not conducted any business, only a majority of the members, or, if there are no members, the majority of the managers, if any, or if no members or managers, the person or a majority of the persons signing the articles of organization, may execute and acknowledge a certificate of cancellation of articles of organization, on a form prescribed by the Secretary of State, stating all of the following:

(1) The name of the domestic limited liability company and the Secretary of State's file number.

(2) That the certificate of cancellation is being filed within 12 months from the date the articles of organization were filed.

(3) That the limited liability company does not have any debts or other liabilities, except as provided in paragraph (4).

(4) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, or a final annual tax return, as described by Section 17947 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part

10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(5) That the known assets of the limited liability company remaining after payment of, or adequately providing for, known debts and liabilities have been distributed to the persons entitled thereto or that the limited liability company acquired no known assets, as the case may be.

(6) That the limited liability company has not conducted any business from the time of the filing of the articles of organization.

(7) That a majority of the managers or members voted, or, if no managers or members, the person or a majority of the persons signing the articles of organization, voted to dissolve the limited liability company.

(8) If the limited liability company has received payments for interests from investors, that those payments have been returned to those investors.

(b) A certificate of cancellation executed and acknowledged pursuant to subdivision (a) shall be filed with the Secretary of State within 12 months from the date that the articles of organization were filed. The Secretary of State shall notify the Franchise Tax Board of the cancellation.

(c) Upon filing a certificate of cancellation pursuant to subdivision (a), a limited liability company shall be cancelled and its powers, rights, and privileges shall cease.

(d) A domestic limited liability company that filed articles of organization on or after January 1, 2004, and that meets all of the conditions described in subdivision (a) may file a certificate of cancellation under this section.

SEC. 42. Section 17355 of the Corporations Code is amended to read:

17355. (a) (1) Causes of action against a dissolved limited liability company, whether arising before or after the dissolution of the limited liability company, may be enforced against any of the following:

(A) Against the dissolved limited liability company, to the extent of its undistributed assets, including, without limitation, any insurance assets held by the limited liability company that may be available to satisfy claims.

(B) If any of the assets of the dissolved limited liability company have been distributed to members, against members of the dissolved limited liability company to the extent of the limited liability company assets distributed to them upon dissolution of the limited liability company.

Any member compelled to return distributed assets in an amount that exceeds the sum of the member's pro rata share of the claim and the amount for which the member could otherwise be held liable under

Section 17254 or 17255 may seek contribution for the excess from any other member or manager, up to the sum of that other person's pro rata share of the claim and that other person's liabilities under Section 17254 or 17255.

(2) Except as set forth in subdivision (c), all causes of action against a member of a dissolved limited liability company arising under this section are extinguished unless the claimant commences a proceeding to enforce the cause of action against that member of a dissolved limited liability company prior to the earlier of the following:

(A) The expiration of the statute of limitations applicable to the cause of action.

(B) Four years after the effective date of the dissolution of the limited liability company.

(3) As a matter of procedure only, and not for purposes of determining liability, members of the dissolved limited liability company may be sued in the name of the limited liability company upon any cause of action against the limited liability company. This section does not affect the rights of the limited liability company or its creditors under Sections 17254 and 17255, or the rights, if any, of creditors under the Uniform Fraudulent Transfer Act, that may arise against the member of a limited liability company.

(b) Summons or other process against a limited liability company may be served by delivering a copy thereof to a manager, member, officer, or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of those persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved limited liability company by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy Secretary of State. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State. Upon receipt of process and the fee therefor, the Secretary of State shall give notice to the limited liability company as provided in Section 1702.

(c) Every limited liability company shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its members or other persons having any equity or other interest in the limited liability company, to the extent of their interest therein, and the action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any action may be

made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) For purposes of Article 4 (commencing with Section 19071) of Chapter 4 of Part 10.2 of Division 2 of the Revenue and Taxation Code, the liability described in this section shall be considered a liability at law within respect to a dissolved limited liability company.

SEC. 43. Section 17356 of the Corporations Code is amended to read:

17356. (a) (1) The managers shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of dissolution upon the dissolution of the limited liability company pursuant to Chapter 8 (commencing with Section 17350), unless the event causing the dissolution is that specified in subdivision (c) of Section 17350, in which case the managers or members conducting the winding up of the limited liability company's affairs pursuant to Section 17352 shall have the obligation to file the certificate of dissolution.

(2) The certificate of dissolution shall set forth all of the following:

(A) The name of the limited liability company and the Secretary of State's file number.

(B) Any other information the managers or members filing the certificate of dissolution determine to include.

(3) If a dissolution pursuant to subdivision (b) of Section 17350 is made by the vote of all of the members and a statement to that effect is added to the certificate of cancellation of articles of organization pursuant to subdivision (b), the separate filing of a certificate of dissolution pursuant to this subdivision is not required.

(b) (1) The managers or members who filed the certificate of dissolution shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of cancellation of articles of organization upon the completion of the winding up of the affairs of the limited liability company pursuant to Chapter 8 (commencing with Section 17350), unless the event causing the dissolution is that specified in subdivision (c) of Section 17350, in which case the managers or members conducting the winding up of the limited liability company's affairs pursuant to Section 17352 shall have the obligation to file the certificate of cancellation of articles of organization.

(2) The certificate of cancellation of articles of organization shall set forth all of the following:

(A) The name of the limited liability company and the Secretary of State's file number.

(B) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, or a final annual tax return, as

described by Section 17947 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(C) Any other information the managers or members filing the certificate of cancellation of articles of organization determine to include.

(3) The Secretary of State shall notify the Franchise Tax Board of the filing.

SEC. 44. Section 17552 of the Corporations Code is amended to read:

17552. (a) If the surviving entity is a limited liability company or an other business entity (other than a corporation in a merger in which a domestic corporation is a constituent party), after approval of a merger by the constituent limited liability companies and any constituent other business entities, the constituent limited liability companies or constituent other business entities shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company, unless a lesser number is specified in the articles of organization or the operating agreement of the constituent limited liability company, and by each constituent foreign limited liability company and each constituent other business entity by those persons required to execute the certificate or agreement of merger by the laws under which the constituent foreign limited liability company or other business entity is organized. The certificate of merger shall set forth all of the following:

(1) The names and the Secretary of State's file numbers, if any, of each of the constituent limited liability companies and constituent other business entities, separately identifying the disappearing limited liability companies and disappearing other business entities and the surviving limited liability company or surviving other business entity.

(2) If a vote of the members was required under Section 17551, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class.

(3) If the surviving entity is a limited liability company and not an other business entity, any change required to the information set forth in the articles of organization of the surviving limited liability company resulting from the merger, including any change in the name of the surviving limited liability company resulting from the merger. The filing of a certificate of merger setting forth any changes to the articles of

organization of the surviving limited liability company shall have the effect of the filing of an amendment to the articles of organization by the surviving limited liability company, and the surviving limited liability company need not file a certificate of amendment under Section 17054 to reflect those changes.

(4) The future effective date or time (which shall be a date or time certain not more than 90 days subsequent to the date of filing) of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(5) If the surviving entity is an other business entity or a foreign limited liability company, the full name, type of entity, legal jurisdiction in which the entity was organized and by whose laws its internal affairs are governed, and the address of the principal place of business of the entity.

(6) Any other information required to be stated in the certificate of merger by the laws under which each constituent other business entity is organized, including, if a domestic corporation is a party to the merger, paragraph (2) of subdivision (g) of Section 1113.

If the surviving entity is a foreign limited liability company in a merger in which a domestic corporation is a disappearing other business entity, a copy of the agreement of merger and attachments as required under paragraph (1) of subdivision (g) of Section 1113 shall be filed at the same time as the filing of the certificate of merger.

(b) If the surviving entity is a domestic corporation or a foreign corporation in a merger in which a domestic corporation is a constituent party, after approval of the merger by the constituent limited liability companies and constituent other business entities, the surviving corporation shall file in the office of the Secretary of State a copy of the agreement of merger and attachments required under paragraph (1) of subdivision (g) of Section 1113. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all of the managers of the limited liability company unless a lesser number is specified in the articles of organization or the operating agreement of the domestic constituent limited liability company.

(c) A certificate of merger, or the agreement of merger, as is applicable under subdivisions (a) or (b), shall have the effect of the filing of a certificate of cancellation of articles of organization for each disappearing limited liability company and no disappearing limited liability company need file a certificate of cancellation of articles of organization under Section 17356 as a result of the merger.

(d) If a disappearing other business entity is a foreign corporation qualified to transact intrastate business in this state, the filing of the

certificate of merger or the agreement of merger shall automatically surrender its right to transact intrastate business.

SEC. 45. Section 17554.5 of the Corporations Code is amended to read:

17554.5. (a) Upon merger pursuant to this chapter, a surviving domestic or foreign limited liability company or other business entity shall be deemed to have assumed the liability of each disappearing domestic or foreign limited liability company or other business entity that is taxed under Part 10 (commencing with Section 17001) of, or under Part 11 (commencing with Section 23001) of, Division 2 of the Revenue and Taxation Code for the following:

(1) To prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of that disappearing entity as specified in Chapter 2 (commencing with Section 18501) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(2) To pay any tax liability determined to be due.

(b) If the surviving entity is a domestic limited liability company, domestic corporation, or registered limited liability partnership or a foreign limited liability company, foreign limited liability partnership, or foreign corporation that is registered or qualified to do business in California, the Secretary of State shall notify the Franchise Tax Board of the merger.

SEC. 46. Section 3126 of the Financial Code is amended to read:

3126. (a) When the commissioner has completed the liquidation of the bank, he or she shall petition the court for an order declaring the bank duly wound up and dissolved.

(b) After such notice as the court may direct and a hearing, the court may make an order declaring the bank duly wound up and dissolved. Such order shall declare:

(1) That the bank has been duly wound up;

(2) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, and that any tax or penalty due under the Corporation Tax Law has been paid, and that the bank's known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts, and liabilities have been paid so far as the bank's assets permitted, as the case may be. If there are known debts or liabilities for the payment of which adequate provision has been made, the order shall describe such provision, setting forth such information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability;

(3) That all known assets of the bank have been distributed to its shareholders or wholly applied on account of the bank's debts and liabilities; and

(4) That the bank is dissolved.

(c) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(d) Upon the making of the order declaring the bank dissolved, the corporate existence of the bank shall cease, except for the purposes of any necessary further winding up.

(e) Upon the making of the order declaring the bank dissolved, the commissioner shall forthwith file with the Secretary of State a copy of such order, certified by the clerk of the court.

SEC. 47. Section 5758 of the Financial Code is amended to read:

5758. The executed agreement, or an executed counterpart of it and the respective certificate of each constituent association or any other corporation and of the surviving association shall be filed with the Secretary of State. Neither the agreement nor any certificate shall be filed, however, unless the commissioner's written approval is attached. The effective date of the merger or consolidation under this article shall be the date of the filing with the Secretary of State of the copy of the approved agreement of merger or consolidation. A copy of the approved agreement certified by the Secretary of State shall be filed with the commissioner.

If the resulting association is a federal association, the effective date of merger shall be the date the merger is effective under regulations of the Office of Thrift Supervision.

SEC. 48. Section 5760 of the Financial Code is amended to read:

5760. (a) Any association, owning all the outstanding stock of any corporation, may merge its wholly owned subsidiary corporation if the laws under which the subsidiary corporation exists permit a merger as this section provides. The association shall submit to the commissioner for approval a certificate of ownership in its name signed by its president or a vice president, and its secretary or an assistant secretary, which shall be verified by their affidavit, stating, in effect, that the matters set forth in the certificate are true of their own knowledge. The certificate shall set forth:

(1) That it owns all the outstanding stock of the merged corporation.

(2) A copy of the resolution adopted by its board of directors to merge the corporation, and to assume all of its obligations.

(3) The time and place of the meeting of the board of directors at which the resolution was adopted, and the vote by which it was adopted.

(b) If an association owns less than all the outstanding stock but at least 90 percent of the outstanding shares of stock of each class of a

corporation or corporations, domestic or foreign, the merger of the subsidiary corporation or corporations into the parent association may be effected by resolutions adopted by the boards of the parent and each subsidiary corporation, and the filing of a certificate of ownership as provided in subdivision (d). The resolution of the board of the parent association shall provide for the merger, shall provide that the parent association assumes all the liabilities of each subsidiary corporation and shall set forth the securities, cash property or rights to be issued, paid, delivered or granted by the parent association upon surrender of each share of stock of each subsidiary corporation not owned by the parent association. The resolution of the board of each subsidiary corporation shall approve the fairness of the consideration to be received for each share of stock of the subsidiary corporation not owned by the parent association.

(c) Notwithstanding any other provision of law, in any merger pursuant to this section, the parent association may change its name regardless of whether the name so adopted is the same or similar to that of one of the disappearing associations. In this case the resolution shall provide for the amendment of articles to change the name.

(d) After adoption of the resolution or resolutions of merger, as provided under subdivision (b), the association shall submit to the commissioner for approval a certificate of ownership in its name signed by its president or a vice president, and its secretary or an assistant secretary, which shall be verified by their affidavit, stating, in effect, that the matters set forth in the certificate are true of their own knowledge. The certificate shall set forth:

(1) That the association owns at least 90 percent of the outstanding stock of the merged corporations.

(2) A copy of the resolution adopted by the association's board of directors to merge the corporation, to assume all of its obligations, and including the resolution for a change of name if applicable.

(3) A copy of the resolution or resolutions adopted by the board of each subsidiary corporation, if required.

(4) The time and place of the meeting of the boards of directors of the parent and the subsidiary at which the resolutions were adopted, and the vote by which they were adopted.

(e) In the event all of the outstanding shares of stock of a subsidiary domestic corporation party to a merger effected under this section are not owned by the parent association immediately prior to the merger, the parent association shall, at least 20 days before the effective date of the merger, give notice to each stockholder of the subsidiary corporation that the merger will become effective on or after a specific date, which notice shall contain (1) a copy of the resolutions of the boards of directors

of the parent and the subsidiary required by subdivision (b) above and (2) the information which must accompany the notice required by subdivision (a) of Section 1301 of the Corporations Code. The notice shall be sent by mail addressed to the stockholder at the address of the stockholder as it appears on the records of the corporation. The stockholder shall have the right to demand payment of cash for the shares of stock of the stockholder pursuant to the provisions of Chapter 13 (commencing with Section 1300) of Division 1 of Title 1 of the Corporations Code.

(f) If a merger authorized by this section is approved, the commissioner shall attach to the certificate written approval, and the certificate shall be filed with the Secretary of State. A copy of the approved certificate certified by the Secretary of State shall be filed with the commissioner. Thereupon, all of the estate, property, rights, privileges, and franchises of the merged corporation shall vest in and be held and enjoyed by the parent association as fully as the same were before held and enjoyed by the merged corporation, but subject to all the liabilities and obligations of the merged corporation and the rights of all creditors. The parent association shall not, however, thereby acquire the right to engage in any business or to exercise any right, privilege, or franchise of a kind which it could not lawfully engage in or exercise under the provisions of this division. The parent association shall be deemed to have assumed all the liabilities and obligations of the merged corporation, and shall be liable in the same manner as if it had itself incurred the liabilities and obligations.

(g) If the merged subsidiary is a domestic corporation, a copy of the certificate shall be filed in the office of the Secretary of State on behalf of the subsidiary corporation. If the merged subsidiary is a foreign corporation qualified for the transaction of intrastate business in this state there shall be filed in the office of the Secretary of State on behalf of the foreign subsidiary a certificate of surrender and right to transact intrastate business as provided in Section 2112 of the Corporations Code.

SEC. 49. Section 17937 is added to the Revenue and Taxation Code, to read:

17937. (a) A limited partnership shall not be subject to the taxes imposed by this chapter for a taxable year if the limited partnership does all of the following:

(1) Files with the Franchise Tax Board a timely final annual tax return for the preceding taxable year.

(2) Does not do business in this state after the end of the taxable year for which the final annual tax return was filed.

(3) Files a certificate of cancellation with the Secretary of State, pursuant to Section 15623 or 15696 of the Corporations Code, before

the end of the 12-month period beginning with the date the final annual tax return was filed.

(b) For purposes of this section, a "final annual tax return" is a return described in Section 18633 that is filed on or before the due date of the return, as extended, that the taxpayer designates in the manner prescribed by the Franchise Tax Board as the taxpayer's final annual return for purposes of the tax imposed under this chapter. For purposes of this chapter, a "final annual tax return" is a return filed pursuant to Section 18633 where the taxpayer is not required to file a subsequent return to reflect the imposition of tax under this chapter.

SEC. 50. Section 17945 of the Revenue and Taxation Code is repealed.

SEC. 51. Section 17947 is added to the Revenue and Taxation Code, to read:

17947. (a) A limited liability company shall not be subject to the taxes imposed by this chapter for a taxable year if the limited liability company does all of the following:

(1) Files with the Franchise Tax Board a timely final annual tax return for the preceding taxable year.

(2) Does not do business in this state after the end of the taxable year for which the final annual tax return was filed.

(3) Files a certificate of cancellation with the Secretary of State, pursuant to Section 17356 or 17455 of the Corporations Code, before the end of the 12-month period beginning with the date the final annual tax return was filed.

(b) For purposes of this section, a "final annual tax return" is a return described in Section 18633.5 that is filed on or before the due date of the return, as extended, that the taxpayer designates in the manner prescribed by the Franchise Tax Board as the taxpayer's final return for purposes of the tax imposed under this chapter. For purposes of this chapter, a "final annual tax return" is a return filed pursuant to Section 18633.5 where the taxpayer is not required to file a subsequent return to reflect the imposition of tax under this chapter.

SEC. 52. Section 17948.1 of the Revenue and Taxation Code is repealed.

SEC. 53. Section 17948.3 is added to the Revenue and Taxation Code, to read:

17948.3. (a) A registered limited liability partnership shall not be subject to the taxes imposed by this chapter for a taxable year if the registered limited liability partnership does all of the following:

(1) Files with the Franchise Tax Board a timely final annual tax return for the preceding taxable year.

(2) Does not do business within this state after the end of the taxable year for which the final annual tax return was filed.

(3) Files a notice in accordance with subdivision (b) of Section 16954 or subdivision (b) of Section 16960 of the Corporations Code with the Secretary of State before the end of the 12-month period beginning with the date of the final annual tax return was filed.

(b) For purposes of this section, a "final annual tax return" is a return described in Section 18633 that is filed on or before the due date of the return, as extended, that the taxpayer designates in the manner prescribed by the Franchise Tax Board as the taxpayer's final annual tax return for purposes of the tax imposed under this chapter. For purposes of this chapter, a "final annual tax return" is a return filed pursuant to Section 18633 where the taxpayer is not required to file a subsequent return to reflect the imposition of tax under this chapter.

SEC. 54. Section 23153 of the Revenue and Taxation Code is amended to read:

23153. (a) Every corporation described in subdivision (b) shall be subject to the minimum franchise tax specified in subdivision (d) from the earlier of the date of incorporation, qualification, or commencing to do business within this state, until the effective date of dissolution or withdrawal as provided in Section 23331 or, if later, the date the corporation ceases to do business within the limits of this state.

(b) Unless expressly exempted by this part or the California Constitution, subdivision (a) shall apply to each of the following:

(1) Every corporation that is incorporated under the laws of this state.

(2) Every corporation that is qualified to transact intrastate business in this state pursuant to Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) Every corporation that is doing business in this state.

(c) The following entities are not subject to the minimum franchise tax specified in this section:

(1) Credit unions.

(2) Nonprofit cooperative associations organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code that have been issued the certificate of the board of supervisors prepared pursuant to Section 54042 of the Food and Agricultural Code. The association shall be exempt from the minimum franchise tax for five consecutive taxable years, commencing with the first taxable year for which the certificate is issued pursuant to subdivision (b) of Section 54042 of the Food and Agricultural Code. This paragraph only applies to nonprofit cooperative associations organized on or after January 1, 1994.

(d) (1) Except as provided in paragraph (2), paragraph (1) of subdivision (f) of Section 23151, paragraph (1) of subdivision (f) of Section 23181, and paragraph (1) of subdivision (c) of Section 23183, corporations subject to the minimum franchise tax shall pay annually to the state a minimum franchise tax of eight hundred dollars ($800).

(2) The minimum franchise tax shall be twenty-five dollars ($25) for each of the following:

(A) A corporation formed under the laws of this state whose principal business when formed was gold mining, which is inactive and has not done business within the limits of the state since 1950.

(B) A corporation formed under the laws of this state whose principal business when formed was quicksilver mining, which is inactive and has not done business within the limits of the state since 1971, or has been inactive for a period of 24 consecutive months or more.

(3) For purposes of paragraph (2), a corporation shall not be considered to have done business if it engages in other than mining.

(e) Notwithstanding subdivision (a), for taxable years beginning on or after January 1, 1999, and before January 1, 2000, every "qualified new corporation" shall pay annually to the state a minimum franchise tax of five hundred dollars ($500) for the second taxable year. This subdivision shall apply to any corporation that is a qualified new corporation and is incorporated on or after January 1, 1999, and before January 1, 2000.

(1) The determination of the gross receipts of a corporation, for purposes of this subdivision, shall be made by including the gross receipts of each member of the commonly controlled group, as defined in Section 25105, of which the corporation is a member.

(2) "Gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(3) "Qualified new corporation" means a corporation that is incorporated under the laws of this state or has qualified to transact intrastate business in this state, that begins business operations at or after the time of its incorporation and that reasonably estimates that it will have gross receipts, less returns and allowances, reportable to this state for the taxable year of one million dollars ($1,000,000) or less. "Qualified new corporation" does not include any corporation that began business operations as a sole proprietorship, a partnership, or any other form of business entity prior to its incorporation. This subdivision shall not apply to any corporation that reorganizes solely for the purpose of reducing its minimum franchise tax.

(4) This subdivision shall not apply to limited partnerships, as defined in Section 17935, limited liability companies, as defined in Section 17941, limited liability partnerships, as defined in Section 17948, charitable organizations, as described in Section 23703, regulated investment companies, as defined in Section 851 of the Internal Revenue Code, real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, real estate mortgage investment conduits, as defined in Section 860D of the Internal Revenue Code, financial asset securitization investment trusts, as defined in Section 860L of the Internal Revenue Code, qualified Subchapter S subsidiaries, as defined in Section 1361(b)(3) of the Internal Revenue Code, or to the formation of any subsidiary corporation, to the extent applicable.

(5) For any taxable year beginning on or after January 1, 1999, and before January 1, 2000, if a corporation has qualified to pay five hundred dollars ($500) for the second taxable year under this subdivision, but in its second taxable year, the corporation's gross receipts, as determined under paragraphs (1) and (2), exceed one million dollars ($1,000,000), an additional tax in the amount equal to three hundred dollars ($300) for the second taxable year shall be due and payable by the corporation on the due date of its return, without regard to extension, for that year.

(f) (1) Notwithstanding subdivision (a), every corporation that incorporates or qualifies to do business in this state on or after January 1, 2000, shall not be subject to the minimum franchise tax for its first taxable year.

(2) This subdivision shall not apply to limited partnerships, as defined in Section 17935, limited liability companies, as defined in Section 17941, limited liability partnerships, as defined in Section 17948, charitable organizations, as described in Section 23703, regulated investment companies, as defined in Section 851 of the Internal Revenue Code, real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, real estate mortgage investment conduits, as defined in Section 860D of the Internal Revenue Code, financial asset securitization investment trusts, as defined in Section 860L of the Internal Revenue Code, and qualified Subchapter S subsidiaries, as defined in Section 1361(b)(3) of the Internal Revenue Code, to the extent applicable.

(3) This subdivision shall not apply to any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax.

(g) Notwithstanding subdivision (a), a domestic corporation, as defined in Section 167 of the Corporations Code, that files a certificate of dissolution in the office of the Secretary of State pursuant to subdivision (c) of Section 1905 of the Corporations Code, prior to its amendment by the act amending this subdivision, and that does not thereafter do

business shall not be subject to the minimum franchise tax for taxable years beginning on or after the date of that filing.

(h) The minimum franchise tax imposed by paragraph (1) of subdivision (d) shall not be increased by the Legislature by more than 10 percent during any calendar year.

SEC. 55. Section 23332 of the Revenue and Taxation Code is amended to read:

23332. (a) Except in the case of a taxpayer subject to the provisions of Section 23222a, any taxpayer which is dissolved or withdraws from the state during any taxable year shall pay a tax only for the months of the taxable year which precede the effective date of the dissolution or withdrawal, according to or measured by (1) the net income of the preceding income year or (2) a percentage of net income determined by ascertaining the ratio which the months of the taxable year, preceding the effective date of dissolution or withdrawal, bears to the months of the income year, whichever is the lesser amount. The taxes levied under this chapter shall not be subject to abatement or refund because of the cessation of business or corporate existence of any taxpayer pursuant to a reorganization, consolidation, or merger (as defined by Section 23251). In any event, each corporation shall pay a tax not subject to offset for the period in an amount equal to the minimum tax prescribed by Section 23153.

(b) The provisions of subdivision (a) shall be applied only with respect to taxpayers which dissolve or withdraw before January 1, 1973. On and after that date, the tax for the taxable year in which the taxpayer ceases doing business, dissolves or withdraws shall be determined under the appropriate provisions of Section 23151.1, 23153, 23181, or 23183, whichever is applicable.

(c) (1) A corporation shall not be subject to the minimum franchise tax imposed by this chapter for a taxable year if the corporation does all of the following:

(A) Files a timely final franchise tax return for a taxable year with the Franchise Tax Board.

(B) Does not do business in this state after the end of the taxable year for which the final franchise tax return was filed.

(C) (i) In the case of a corporation other than a corporation described in clause (ii), files a certificate of dissolution or surrender with the Secretary of State, in accordance with Sections 1809, 1905, 2112, 6615, 8615, and 12635 of the Corporations Code and Section 3126 of the Financial Code, before the end of the 12-month period beginning with the date the final franchise tax return was filed.

(ii) In the case of a limited liability company that is a corporation pursuant to subdivision (c) of Section 23038, files a certificate of

cancellation with the Secretary of State, in accordance with Section 17356 or 17455 of the Corporations Code, before the end of the 12-month period beginning with the date the final franchise tax return was filed.

(2) For purposes of this subdivision, a "final franchise tax return" is a return filed pursuant to Section 18601 on or before the due date of the return, as extended, that the taxpayer designates in the manner prescribed by the Franchise Tax Board as the taxpayer's final franchise tax return for purposes of the tax imposed under this chapter. A final franchise tax return for purposes of the tax imposed under this chapter is a return filed pursuant to Section 18601 where the taxpayer is not required to file a subsequent return to reflect the imposition of tax under this chapter.

SEC. 56. Section 23334 of the Revenue and Taxation Code is repealed.

SEC. 57. Section 23335 of the Revenue and Taxation Code is amended to read:

23335. (a) Any return filed pursuant to Section 18601 that the taxpayer designates in the appropriate place on the form provided by the Franchise Tax Board as the taxpayer's final franchise tax return as the result of a dissolution or withdrawal shall be treated as a request for information on how to properly dissolve or withdraw.

(b) If a taxpayer has filed a return as described in subdivision (a), the Franchise Tax Board shall provide the taxpayer with information regarding all documents that are required by this article to be filed with the Franchise Tax Board and the Secretary of State.

SEC. 58. Section 23561 of the Revenue and Taxation Code is amended to read:

23561. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State if the corporate powers, rights, and privileges of the corporation have been suspended or forfeited by the Franchise Tax Board for failure to pay the tax, penalties, or interest due under this part or Part 10.2 (commencing with Section 18401).

SEC. 58.5. (a) Section 5.5 of this bill incorporates amendments to Section 1113 of the Corporations Code proposed by both this bill and AB 339. 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 1113 of the Corporations Code, and (3) this bill is enacted after AB 339, in which case Section 1113 of the Corporations Code, as amended by Section 5 of this bill,

shall remain operative only until the operative date of AB 339, at which time Section 5.5 of this bill shall become operative.

(b) Section 17.5 of this bill incorporates amendments to Section 6019.1 of the Corporations Code proposed by both this bill and AB 339. 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 6019.1 of the Corporations Code, and (3) this bill is enacted after AB 339, in which case Section 6019.1 of the Corporations Code, as amended by Section 17 of this bill, shall remain operative only until the operative date of AB 339, at which time Section 17.5 of this bill shall become operative.

(c) Section 24.5 of this bill incorporates amendments to Section 8019.1 of the Corporations Code proposed by both this bill and AB 339. 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 8019.1 of the Corporations Code, and (3) this bill is enacted after AB 339, in which case Section 8019.1 of the Corporations Code, as amended by Section 24 of this bill, shall remain operative only until the operative date of AB 339, at which time Section 24.5 of this bill shall become operative.

(d) Section 31.5 of this bill incorporates amendments to Section 12540.1 of the Corporations Code proposed by both this bill and AB 339. 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 12540.1 of the Corporations Code, and (3) this bill is enacted after AB 339, in which case Section 12540.1 of the Corporations Code, as amended by Section 31 of this bill, shall remain operative only until the operative date of AB 339, at which time Section 31.5 of this bill shall become operative.

SEC. 59. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 774

An act to amend Section 5349.5 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 5349.5 of the Welfare and Institutions Code is amended to read:

5349.5. (a) This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2013, deletes or extends that date.

(b) The State Department of Mental Health shall submit a report and evaluation of all counties implementing any component of this article to the Governor and to the Legislature by July 31, 2011. The evaluation shall include data described in subdivision (d) of Section 5348.

CHAPTER 775

An act to amend Section 1261.6 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 1261.6 of the Health and Safety Code is amended to read:

1261.6. (a) (1) For purposes of this section and Section 1261.5, an "automated drug delivery system" means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, dispensing, or distribution of drugs. An automated drug delivery system shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.

(2) For purposes of this section, "facility" means a health facility licensed pursuant to subdivision (c), (d), or (k), of Section 1250 that has an automated drug delivery system provided by a pharmacy.

(3) For purposes of this section, "pharmacy services" means the provision of both routine and emergency drugs and biologicals to meet the needs of the patient, as prescribed by a physician.

(b) Transaction information shall be made readily available in a written format for review and inspection by individuals authorized by law. These records shall be maintained in the facility for a minimum of three years.

(c) Individualized and specific access to automated drug delivery systems shall be limited to facility and contract personnel authorized by law to administer drugs.

(d) (1) The facility and the pharmacy shall develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the quality, potency, and purity of stored drugs. Policies and procedures shall define access to the automated drug delivery system and limits to access to equipment and drugs.

(2) All policies and procedures shall be maintained at the pharmacy operating the automated drug delivery system and the location where the automated drug delivery system is being used.

(e) When used as an emergency pharmaceutical supplies container, drugs removed from the automated drug delivery system shall be limited to the following:

(1) A new drug order given by a prescriber for a patient of the facility for administration prior to the next scheduled delivery from the pharmacy, or 72 hours, whichever is less. The drugs shall be retrieved only upon authorization by a pharmacist and after the pharmacist has reviewed the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(2) Drugs that a prescriber has ordered for a patient on an as-needed basis, if the utilization and retrieval of those drugs are subject to ongoing review by a pharmacist.

(3) Drugs designed by the patient care policy committee or pharmaceutical service committee of the facility as emergency drugs or acute onset drugs. These drugs may be retrieved from an automated drug delivery system pursuant to the order of a prescriber for emergency or immediate administration to a patient of the facility. Within 48 hours after retrieval under this paragraph, the case shall be reviewed by a pharmacist.

(f) When used to provide pharmacy services pursuant to Section 4119.1 of the Business and Professions Code, the automated drug delivery system shall be subject to all of the following requirements:

(1) Drugs removed from the automated drug delivery system for administration to a patient shall be in properly labeled units of administration containers or packages.

(2) A pharmacist shall review and approve all orders prior to a drug being removed from the automated drug delivery system for administration to a patient. The pharmacist shall review the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(3) The pharmacy providing services to the facility pursuant to Section 4119.1 of the Business and Professions Code shall control access to the drugs stored in the automated drug delivery system.

(4) Access to the automated drug delivery system shall be controlled and tracked using an identification or password system or biosensor.

(5) The automated drug delivery system shall make a complete and accurate record of all transactions that will include all users accessing the system and all drugs added to, or removed from, the system.

(6) After the pharmacist reviews the prescriber's order, access by licensed personnel to the automated drug delivery system shall be limited only to drugs ordered by the prescriber and reviewed by the pharmacist and that are specific to the patient. When the prescriber's order requires a dosage variation of the same drug, licensed personnel shall have access to the drug ordered for that scheduled time of administration.

(7) (A) Systems that allow licensed personnel to have access to multiple drugs and are not patient specific in their design, shall be allowed under this subdivision if those systems have electronic and mechanical safeguards in place to ensure that the drugs delivered to the patient are specific to that patient. Each facility using such an automated drug system shall notify the department in writing prior to the utilization of the system. The notification submitted to the department pursuant to this paragraph shall include, but is not limited to, information regarding system design, personnel with system access, and policies and procedures covering staff training, storage, and security, and the facility's administration of these types of systems.

(B) As part of its routine oversight of these facilities, the department shall review a facility's medication training, storage, and security, and its administration procedures related to its use of an automated drug delivery system to ensure that adequate staff training and safeguards are in place to make sure that the drugs delivered are appropriate for the patient. If the department determines that a facility is not in compliance with this section, the department may revoke its authorization to use automated drug delivery systems granted under subparagraph (A).

(C) This paragraph shall remain in effect only until January 1, 2012, unless a later enacted statute is enacted on or before January 1, 2012, deletes or extends that date.

(g) The stocking of an automated drug delivery system shall be performed by a pharmacist. If the automated drug delivery system utilizes removable pockets, cards, drawers, or similar technology, the stocking system may be done outside of the facility and be delivered to the facility if all of the following conditions are met:

(1) The task of placing drugs into the removable pockets, cards, or drawers is performed by a pharmacist or by an intern pharmacist or a

pharmacy technician working under the direct supervision of a pharmacist.

(2) The removable pockets, cards, or drawers are transported between the pharmacy and the facility in a secure tamper-evident container.

(3) The facility, in conjunction with the pharmacy, has developed policies and procedures to ensure that the pockets, cards, or drawers are properly placed into the automated drug delivery system.

(h) Review of the drugs contained within, and the operation and maintenance of, the automated drug delivery system shall be done in accordance with law and shall be the responsibility of the pharmacy. The review shall be conducted on a monthly basis by a pharmacist and shall include a physical inspection of the drugs in the automated drug delivery system, an inspection of the automated drug delivery system machine for cleanliness, and a review of all transaction records in order to verify the security and accountability of the system.

(i) Drugs dispensed from an automated drug delivery system that meets the requirements of this section shall not be subject to the labeling requirements of Section 4076 of the Business and Professions Code or Section 111480 of this code if the drugs to be placed into the automated drug delivery system are in unit dose packaging or unit of use and if the information required by Section 4076 of the Business and Professions Code and Section 111480 of this code is readily available at the time of drug administration. For purposes of this section, unit dose packaging includes blister pack cards.

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 776

An act to add Sections 776, 2872.5, and 2892.1 to the Public Utilities Code, relating to telecommunications, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 776 is added to the Public Utilities Code, to read:

776. (a) The commission shall, in a single rulemaking or other appropriate proceeding, not to exceed 18 months in duration, consider the need for performance reliability standards and, upon making the determination pursuant to subdivision (c), develop and implement performance reliability standards, for all backup power systems installed on the property of residential and small commercial customers by a facilities-based provider of telephony services. Those standards shall do all the following:

(1) Establish minimum operating life.

(2) Establish minimum periods of time during which a telephone system with a charged backup power system will provide the customer with sufficient electricity for emergency usage.

(3) Establish means to warn a customer when the backup power system's charge is low or when the system can no longer hold a charge.

(b) The commission, in developing and implementing any standards in accordance with subdivision (a), shall consider current best practices and technical feasibility for establishing battery backup requirements.

(c) The commission shall not implement standards in accordance with this section unless it determines that the benefits of the standards exceed the costs.

(d) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding.

SEC. 2. Section 2872.5 is added to the Public Utilities Code, to read:

2872.5. (a) The commission, in consultation with the Office of Emergency Services and the Department of General Services, shall open an investigative proceeding to determine whether standardized notification systems and protocol should be utilized by entities that are authorized to use automatic dialing-announcing devices pursuant to subdivision (e) of Section 2872, to facilitate notification of affected members of the public of local emergencies. The commission shall not establish standards for notification systems or standard notification protocol unless it determines that the benefits of the standards exceed the costs.

(b) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding, including recommendations for funding notification systems and any statutory modifications needed to facilitate notification of affected members of the public of local emergencies.

SEC. 3. Section 2892.1 is added to the Public Utilities Code, to read:

2892.1. (a) For purposes of this section, "telecommunications service" means voice communication provided by a telephone corporation as defined in Section 234, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, as defined in Section 2890.2, and voice communication provided by a commercially available facilities-based provider of voice communication services utilizing voice over Internet Protocol or any successor protocol.

(b) The commission, in consultation with the Office of Emergency Services and the Department of General Services, shall open an investigative or other appropriate proceeding to identify the need for telecommunications service systems not on the customer's premises to have backup electricity to enable telecommunications networks to function and to enable the customer to contact a public safety answering point operator during an electrical outage, to determine performance criteria for backup systems, and to determine whether the best practices recommended by the Network Reliability and Interoperability Council in December 2005, for backup systems have been implemented by telecommunications service providers operating in California. If the commission determines it is in the public interest, the commission shall, consistent with subdivisions (c) and (d), develop and implement performance reliability standards.

(c) The commission, in developing any standards pursuant to the proceeding required by subdivision (b), shall consider current best practices and technical feasibility for establishing battery backup requirements.

(d) The commission shall not implement standards pursuant to the proceeding required by subdivision (b) unless it determines that the benefits of the standards exceed the costs.

(e) The commission shall determine the feasibility of the use of zero greenhouse gas emission fuel cell systems to replace diesel backup power systems.

(f) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. The sum of five hundred ninety-six thousand seven hundred nineteen dollars ($596,719) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund for costs incurred by the Public Utilities Commission in the implementation of this act. That sum shall be allocated from those moneys in the Public Utilities Commission Utilities Reimbursement Account derived from the imposition of regulatory fees pursuant to Section 431 of the Public Utilities Code, and shall not include moneys in the Public Utilities Commission Utilities Reimbursement Account derived from the imposition of penalties pursuant to Sections 405 and 406 of the Public Utilities Code.

CHAPTER 777

An act to amend Sections 4036, 4050, 4052, 4301, and 4306.5 of, to amend, renumber, and add Section 4052.1 of, to add Sections 4052.2 and 4052.3 to, and to repeal and add Section 4303 of, the Business and Professions Code, relating to pharmacies.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 4036 of the Business and Professions Code is amended to read:

4036. "Pharmacist" means a natural person to whom a license has been issued by the board, under Section 4200, except as specifically provided otherwise in this chapter. The holder of an unexpired and active pharmacist license issued by the board is entitled to practice pharmacy as defined by this chapter, within or outside of a licensed pharmacy as authorized by this chapter.

SEC. 2. Section 4050 of the Business and Professions Code is amended to read:

4050. (a) In recognition of and consistent with the decisions of the appellate courts of this state, the Legislature hereby declares the practice of pharmacy to be a profession.

(b) Pharmacy practice is a dynamic patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use, drug-related therapy, and communication for clinical and consultative purposes. Pharmacy

practice is continually evolving to include more sophisticated and comprehensive patient care activities.

SEC. 3. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded drug product to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform procedures or functions in a licensed health care facility as authorized by Section 4052.1.

(5) Perform procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, as authorized by Section 4052.2.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) Furnish emergency contraception drug therapy as authorized by Section 4052.3.

(9) Administer immunizations pursuant to a protocol with a prescriber.

(b) A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

(c) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(d) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 4. Section 4052.1 of the Business and Professions Code is amended and renumbered to read:

4052.4. Notwithstanding Section 2038 or any other provision of law, a pharmacist may perform skin puncture in the course of performing routine patient assessment procedures or in the course of performing any procedure authorized under Section 1206.5. For purposes of this section, "routine patient assessment procedures" means: (a) procedures that a patient could, with or without a prescription, perform for himself

or herself, or (b) clinical laboratory tests that are classified as waived pursuant to the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a) and the regulations adopted thereunder by the federal Health Care Financing Administration, as authorized by paragraph (11) of subdivision (a) of Section 1206.5. A pharmacist performing these functions shall report the results obtained from a test to the patient and any physician designated by the patient. Any pharmacist who performs the service authorized by this section shall not be in violation of Section 2052.

SEC. 5. Section 4052.1 is added to the Business and Professions Code, to read:

4052.1. (a) Notwithstanding any other provision of law, a pharmacist may perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(1) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(2) Ordering drug therapy-related laboratory tests.

(3) Administering drugs and biologicals by injection pursuant to a prescriber's order.

(4) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(b) Prior to performing any procedure authorized by this section, a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

SEC. 6. Section 4052.2 is added to the Business and Professions Code, to read:

4052.2. (a) Notwithstanding any other provision of law, a pharmacist may perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance with the policies, procedures, or protocols of that facility, home health agency, licensed clinic, health care service plan, or physician, and in accordance with subdivision (c):

(1) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(2) Ordering drug therapy-related laboratory tests.

(3) Administering drugs and biologicals by injection pursuant to a prescriber's order.

(4) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the individual patient's treating prescriber, and in accordance with the policies, procedures, or protocols of the health care facility, home health agency, licensed clinic, health care service plan, or physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's treating prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this paragraph within 24 hours.

(b) A patient's treating prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(c) The policies, procedures, or protocols referred to in this subdivision shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and shall, at a minimum, do all of the following:

(1) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(2) Require that the medical records of the patient be available to both the patient's treating prescriber and the pharmacist.

(3) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(4) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(d) Prior to performing any procedure authorized by this section, a pharmacist shall have done either of the following:

(1) Successfully completed clinical residency training.

(2) Demonstrated clinical experience in direct patient care delivery.

SEC. 7. Section 4052.3 is added to the Business and Professions Code, to read:

4052.3. (a) Notwithstanding any other provision of law, a pharmacist may furnish emergency contraception drug therapy in accordance with either of the following:

(1) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(2) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American College of Obstetricians and Gynecologists, the California Pharmacist Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(b) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(c) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient a separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars ($10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(d) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1

of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this section.

(e) For each emergency contraception drug therapy initiated pursuant to this section, the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.

SEC. 8. Section 4301 of the Business and Professions Code, as added by Section 44 of Chapter 857 of the Statutes of 2004, is amended to read:

4301. The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.

(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or

to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or administering, or offering to sell, furnish, give away, or administer, any controlled substance to an addict.

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(*l*) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his 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.

(m) The cash compromise of a charge of violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code relating to the Medi-Cal program. The record of the compromise is conclusive evidence of unprofessional conduct.

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license.

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

(s) The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but not be limited to, the amount of dangerous drugs furnished to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities, the previous ordering pattern of the pharmacy, and the general patient population to whom the pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be considered in determining whether there has been a violation of this subdivision. This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code.

(t) This section shall become operative on January 1, 2006.

SEC. 9. Section 4303 of the Business and Professions Code is repealed.

SEC. 10. Section 4303 is added to the Business and Professions Code, to read:

4303. (a) The board may report any violation by a nonresident pharmacy of the laws and regulations of this state, any other state, or of the United States, including, but not limited to, any violation of this chapter or of the regulations established by the board, to any appropriate state or federal regulatory or licensing agency, including, but not limited to, the regulatory or licensing agency of the state in which the nonresident pharmacy is a resident or in which the pharmacist is licensed.

(b) The board may deny, revoke, or suspend a nonresident pharmacy registration, issue a citation or letter of admonishment to a nonresident

pharmacy, or take any other action against a nonresident pharmacy that the board may take against a resident pharmacy license, on any of the same grounds upon which such action might be taken against a resident pharmacy, provided that the grounds for the action are also grounds for action in the state in which the nonresident pharmacy is permanently located.

SEC. 11. Section 4306.5 of the Business and Professions Code is amended to read:

4306.5. Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

(d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

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 778

An act to add Section 17070.955 to the Education Code, relating to school facilities.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 17070.955 is added to the Education Code, immediately following Section 17070.95, to read:

17070.955. In conjunction with an application of a school district for any construction or modernization project, and as a condition of the district receiving funds for the project, the career technical education advisory committee for the district shall provide written confirmation that the need for vocational and career technical facilities is being adequately met within the district consistent with Section 51224, subdivision (b) of Section 51225.3, subdivision (b) of Section 51228, and Section 52336.1.

CHAPTER 779

An act to add and repeal Section 3055 of the Penal Code, relating to parole.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Support services provided to parolees helps the parolee reintegrate into society and reduces recidivism rates.

(b) The creation of a pilot program in East Palo Alto will help the Legislature determine the effectiveness of the program.

SEC. 2. Section 3055 is added to the Penal Code, to read:

3055. (a) The Department of Corrections and Rehabilitation, to the extent existing resources are available or additional resources for these purposes are appropriated, shall establish a reentry program in the City of East Palo Alto.

(b) The reentry program may include, but is not limited to, the following components:

(1) A prerelease needs assessment of inmates scheduled to parole to East Palo Alto.

(2) A partnership between parole agents and local law enforcement officers in supervising parolees released to East Palo Alto.

(3) Development of a reentry plan identifying services needed by the parolee.

(4) A partnership with local community organizations and service providers to provide support services to parolees such as transitional housing, job training, or placement, or substance abuse treatment.

(c) The department shall maintain statistical information related to this reentry program, including, but not limited to, the number of parolees served and the rate of return to prison for those parolees. This information shall be provided to the Legislature upon request.

(d) This section shall become operative only upon the consent of the City of East Palo Alto to participate in the pilot program.

(e) 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 780

An act to amend Sections 22950, 24952, 44041, and 87040 of, and to add Sections 22307.5, 24953, 24977, 44041.5, and 87040.5 to, the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 22307.5 is added to the Education Code, to read:

22307.5. (a) There is in the State Treasury a trust fund to be known as the Teachers' Retirement Program Development Fund. There shall be deposited directly in that fund, and not transferred from the Teachers' Retirement Fund, that portion of employer contributions determined by the board as necessary to fund the expenditures authorized by this section.

(b) Notwithstanding Section 13340 of the Government Code, moneys in the Teachers' Retirement Program Development Fund are continuously appropriated without regard to fiscal years to pay any costs determined by the board to be related to the development of programs authorized by statute that the board determines directly or indirectly enhance the financial security of members, participants, or beneficiaries of the State Teachers' Retirement Plan, if the board determines, by resolution, the proposed program is to have a reasonable expectation to generate sufficient revenue to carry out the ongoing responsibilities of the

programs under development and permit the subsequent deposit of funds, pursuant to subdivision (e), into the Teachers' Retirement Fund.

(c) The board may authorize the transfer and disbursement of funds from the Teachers' Retirement Program Development Fund for the purpose of carrying into effect this section upon the signature of either or both of its chairperson and vice chairperson or the chief executive officer or any employee of the system designated by the chief executive officer.

(d) Disbursements of moneys from the Teachers' Retirement Program Development Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds.

(e) An amount equal to employer contributions deposited in the Teachers' Retirement Program Development Fund pursuant to subdivision (a), together with interest calculated based on the actuarially assumed rate of investment return for the Defined Benefit Program for the period beginning with the deposit of employer contributions into the Teachers' Retirement Program Development Fund and ending with the transfer to the Teachers' Retirement Fund, on terms and conditions established by the board pursuant to subdivision (b), shall be deposited in the Teachers' Retirement Fund, from funds generated from the programs receiving development funds pursuant to this section.

SEC. 2. Section 22950 of the Education Code is amended to read:

22950. (a) Employers shall contribute monthly to the system 8 percent of the creditable compensation upon which members' contributions under this part are based.

(b) From the contributions required under subdivision (a), there shall be deposited in the Teachers' Retirement Fund an amount, determined by the board, that is not less than the amount, determined in an actuarial valuation of the Defined Benefit Program pursuant to Section 22311.5, necessary to finance the liabilities associated with the benefits of the Defined Benefit Program over the funding period adopted by the board, after taking into account the contributions made pursuant to Sections 22901, 22951, and 22955.

(c) The amount of contributions required under subdivision (a) that is not deposited in the Teachers' Retirement Fund pursuant to subdivision (b) shall be deposited directly into the Teachers' Health Benefits Fund, as established in Section 25930, and shall not be deposited into or transferred from the Teachers' Retirement Fund.

(d) (1) Notwithstanding subdivisions (b) and (c), there may be deposited into the Teachers' Retirement Program Development Fund, as established in Section 22307.5, from the contributions required under

subdivision (a), an amount determined by the board, not to exceed the limit specified in paragraph (2).

(2) The balance of deposits into the Teachers' Retirement Development Fund, minus the subsequent transfer of funds, with interest, into the Teachers' Retirement Fund pursuant subdivision (e) of Section 22307.5, shall not exceed 0.01 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which member's contributions to the Defined Benefit Program are based.

(3) The deposits described in this subdivision shall not be deposited into, or transferred from, the Teachers' Retirement Fund.

SEC. 3. Section 24952 of the Education Code is amended to read:

24952. (a) Any annuity contract and custodial account advertised, promoted, or offered through one or more third-party service providers, shall provide for recovery, from the employees who participate, of all costs and expenses of its own administration, including, but not limited to, advertising, promotion, legal, accounting, compliance, recordkeeping, and investment costs and expenses.

(b) Any annuity contract and custodial account administered by the system shall provide for the recovery of all costs and expenses of its administration.

(c) The system may promote and advertise an annuity contract and custodial account administered directly by the system or by a third-party administrator.

SEC. 4. Section 24953 is added to the Education Code, to read:

24953. (a) For purposes of this section, the following definitions shall apply:

(1) "Annuity contract" means an annuity contract described in Section 403(b) of the Internal Revenue Code that is available to employees as described in Section 770.3 of the Insurance Code.

(2) "Custodial account" means a custodial account described in Section 403(b)(7) of the Internal Revenue Code.

(3) "Third-party administrator" means a person or entity other than the system that provides administrative or compliance services to the system as described in subdivision (b).

(b) An employer that employs persons to perform creditable service subject to coverage by the plan under this part may enter into a written contract with the system for services regarding an annuity contract and custodial account provided by the employer. That contract may include any of the following:

(1) Services to ensure compliance with Section 403(b) of the Internal Revenue Code regarding the annuity contract and custodial account

including, but not limited to, services that permit the system to do any of the following:

(A) Administer and maintain written plan documents governing the employer's plan.

(B) Review and authorize hardship withdrawal requests, transfer requests, loan requests and other disbursements permitted under Section 403(b) of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in an annuity contract and custodial account.

(E) Administer and maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to paragraph (2), through information provided by the employer, or through information provided by vendors authorized by the employer to provide investment products, the maximum contributions allowed by employees participating in the annuity contract and custodial account as described in Sections 402(g), 414(v), and 415 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the employer to the annuity contract and custodial account.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's annuity contract and custodial account as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the annuity contract and custodial account.

(2) Services to administer the annuity contract and custodial account that include, but are not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the annuity contract and custodial account that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the employer to ensure compliance with Section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of an employer, of a provider's plan compliance procedures with respect to the provider's annuity contract and custodial account offered under the employer's plan. These audits shall not be conducted more than once per year for a provider's plan, unless documented evidence indicates a problem in complying with Section 403(b) of the Internal Revenue Code.

(c) If the system elects to contract with a third-party administrator for the administrative or compliance services to employers described in subdivision (b), the system shall do all of the following:

(1) Determine that hiring the third-party administrator is in the best interest of the participants to the annuity contract and custodial account, their beneficiaries, and the employer that provides that annuity contract and custodial account.

(2) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the system to be sufficient to protect the assets of participants and beneficiaries in the annuity contract and custodial account.

(3) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 403(b) of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data.

(d) Any personal information obtained by the system in providing services pursuant to this section shall be used by the system only to provide those services for the employer in accordance with the contract entered into with the employer pursuant to subdivision (b).

(e) Nothing in this section requires an employer to contract with the system for the administrative or compliance services described in subdivision (b). A written contract for the administrative or compliance services described in subdivision (b) shall be on behalf of and at the request of the employer.

(f) Nothing in this section shall be construed to interfere with either:

(1) The rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(2) The ability of an employer to establish nonarbitrary requirements upon providers of an annuity contract that, in the employer's determination, aid in the administration of its benefit programs and do not unreasonably discriminate against any provider of an annuity contract or interfere with the rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(g) The cost of providing administrative or compliance services pursuant to this section shall be deemed to be a cost incurred by the

employer and subject to subdivision (b) of Section 44041 or subdivision (b) of Section 87040.

(h) In any conflict between this section and Section 44041.5 or 87040.5, including, with respect to the provision of services provided pursuant to a contract between an employer and the system, the provisions of this section shall prevail.

(i) The system shall disclose to an employer seeking the services described in this section any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the system or a third-party administrator from any plan provider selected as a vendor of an annuity contract or custodial account by the employer. If the system or a third-party administrator is affiliated with or has a contractual relationship with a provider of annuity contracts or custodial accounts, the system or third-party administrator shall disclose the existence of that relationship to each employer and employee participating in the annuity contract or custodial account.

SEC. 5. Section 24977 is added to the Education Code, to read:

24977. (a) An employer that employs persons to perform creditable service subject to coverage by the plan under this part that offers a deferred compensation plan as described in Section 457 of the Internal Revenue Code may enter into a written contract with the system for services regarding that deferred compensation plan provided by the employer. That contract may include any of the following services:

(1) Services to ensure compliance with Section 457 of the Internal Revenue Code regarding the deferred compensation plan including, but not limited to, services that permit the system to do any of the following:

(A) Administer and maintain written plan documents governing the employer's plan.

(B) Review and authorize requests for unforeseeable emergency withdrawals, transfer requests, loan requests and other disbursements permitted under Section 457 of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in the deferred compensation plan.

(E) Administer and maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to paragraph (2), through information provided by the employer, or

through information provided by vendors authorized by the employer to provide investment products, the maximum contributions allowed by employees participating in the deferred compensation plan as described in Sections 414(v) and 457 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the employer to the deferred compensation plan.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's deferred compensation plan as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the deferred compensation plan.

(2) Services to administer the deferred compensation plan that include, but are not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the deferred compensation plan that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the employer to ensure compliance with Section 457 of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of an employer, of a provider's plan compliance procedures with respect to the provider's custodial account offered under the employer's plan. These audits shall not be conducted more than once per year for any provider's plan unless documented evidence indicates a problem in complying with Section 457 of the Internal Revenue Code.

(b) The system may contract with a third-party administrator for the administrative and compliance services to employers described in subdivision (a). For purposes of this subdivision, a "third-party administrator" shall mean a person or entity other than the system that provides administrative or compliance services as described in subdivision (a). If the system contracts with a third-party administrator, the system shall do all of the following:

(1) Determine that hiring a third-party administrator is in the best interest of the participants to the deferred compensation plan, their beneficiaries, and the employer that provides that deferred compensation plan.

(2) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the system to be sufficient to protect the assets of participants and beneficiaries in the deferred compensation plan.

(3) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 457 of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data.

(c) Nothing in this section requires an employer to contract with the system for the administrative or compliance services described in subdivision (a). A written contract for the administrative or compliance services described in subdivision (a) shall be on behalf of and at the request of the employer.

(d) Any personal information obtained by the system in providing services pursuant to this section shall be used by the system only to provide those services for the employer in accordance with the contract entered into with the employer pursuant to subdivision (b).

(e) The cost of providing administrative or compliance services pursuant to this section shall be deemed to be a cost incurred by the employer and subject to subdivision (b) of Section 44041 or subdivision (b) of Section 87040.

(f) In any conflict between this section and Section 44041.5 or 87040.5, including with respect to the provision of services provided pursuant to a contract between an employer and the system, the provisions of this section shall prevail.

(g) The system shall disclose to an employer seeking the services described in this section any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the system or a third-party administrator from any plan provider selected as a vendor of a deferred compensation plan by the employer. If the system or a third-party administrator is affiliated with or has a contractual relationship with a provider of deferred compensation plans, the system or third-party administrator shall disclose the existence of that relationship to each employer and each individual participant in the deferred compensation plan.

SEC. 6. Section 44041 of the Education Code is amended to read:

44041. (a) (1) The governing board of each school district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes:

(A) Paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of

the employee or his or her dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner.

(B) Paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his or her dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his or her dependents, issued by a nonprofit corporation subject to Part 2 (commencing with Section 5110) of, Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(D) Paying periodic charges on any legal services contract for the benefit of the employee, or his or her dependents issued by a nonprofit corporation subject to Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(2) The requirements of this subdivision shall not apply to subdivision (b).

(b) For purposes of a deferred compensation plan authorized by Section 403(b) or 457 of the Internal Revenue Code or an annuity program authorized by Section 403(b) of the Internal Revenue Code that is offered by the school district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the California Constitution, the governing board of each school district when drawing an order for the salary payment due to an employees of the district shall, with or without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for participating in a deferred compensation plan or annuity program offered by the school district. The governing board shall determine the cost of performing the requested deduction and may collect that cost from the organization, entity, or employee requesting or authorizing the deduction. For purposes of this subdivision, the governing board of a school district is entitled to include in the amounts reducing the order the costs of any compliance or administrative services that are required to perform the requested deduction in compliance with federal or state law, and may collect these costs from the participating employee, the employee's participant account, or the organization or entity authorizing the deduction.

(c) The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization

for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his or her authorization for the deduction up to one month in advance of the effective date of coverage.

(d) "Group insurance" as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the school district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

SEC. 7. Section 44041.5 is added to the Education Code, to read:

44041.5. (a) purposes of this section, the following definitions shall apply:

(1) "Annuity contract" means an annuity contract described in Section 403(b) of the Internal Revenue Code that is available to employees as described in Section 770.3 of the Insurance Code.

(2) "Custodial account" means a custodial account described in Section 403(b)(7) of the Internal Revenue Code.

(3) "Deferred compensation plan" means a plan described in Section 457 of the Internal Revenue Code.

(4) "Employer" means a school district or county office of education.

(5) "Third-party administrator" means a person or entity that provides administrative or compliance services to an employer as described in subdivision (b).

(b) An employer may enter into a written contract with a third-party administrator for services regarding an annuity contract and custodial account or a deferred compensation plan provided by the employer. That contract may include any of the following:

(1) Services to ensure compliance with either Section 403(b) of the Internal Revenue Code regarding the annuity contract and custodial account or Section 457 of the Internal Revenue Code regarding a deferred compensation plan including, but not limited to, any of the following:

(A) Administer and maintain written plan documents governing the employer's plan.

(B) Review and authorize hardship withdrawal requests under Section 403(b) of the Internal Revenue Code, transfer requests, loan requests, unforeseeable emergency withdrawals under Section 457 of the Internal

Revenue Code and other disbursements permitted under either Section 403(b) or 457 of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in an annuity contract and custodial account.

(E) Administer and maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to subparagraph (2), through information provided by the employer, or through information provided by vendors authorized by the employer to provide investment products, the maximum contributions allowed by employees participating in either the annuity contract and custodial account as described in Sections 402(g), 414(v), and 415 of the Internal Revenue Code or the deferred compensation plan as described in Sections 414(v) or 457 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the employer to the annuity contract and custodial account or deferred compensation plan.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's annuity contract and custodial account or deferred compensation plan as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the annuity contract and custodial account or deferred compensation plan.

(2) Services to administer the annuity contract and custodial account or a deferred compensation plan that includes, but is not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the annuity contract and custodial account or the deferred compensation plan that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the employer to ensure compliance with either Section 403(b) or 457 of the Internal Revenue Code and compliance with Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of an employer, of a provider's plan compliance procedures with respect to the provider's annuity contract or custodial account offered under the employer's plan. These audits shall not be conducted more than once per year for any provider's plan unless documented evidence indicates a problem in complying with either Section 403(b) or 457 of the Internal Revenue Code.

(c) (1) If an employer elects to contract with a third-party administrator for the administrative or compliance services to employers described in subdivision (b), the employer shall do all of the following:

(A) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the employer to be sufficient to protect the assets of participants and beneficiaries in the annuity contract and custodial account or deferred compensation plan.

(B) Require the third-party administrator to provide evidence of a safe chain-of-custody of assets process for ensuring fulfillment of fiduciary responsibilities and timely placement of participant investments.

(C) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 403(b) or 457 of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data unless access to the data is required to provide the services in accordance with the contract entered into with the employer pursuant to subdivision (b).

(2) This subdivision shall apply to any administrative or compliance services provided pursuant to a contract for services between an employer and the State Teachers' Retirement System if the system does not contract with a third-party administrator to provide those administrative and compliance services on behalf of the system.

(d) A third-party administrator shall disclose to any employer seeking his or her services any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the administrator, a related entity, or a representative or agent of the administrator or related entity from any plan provider selected as a vendor of a annuity contract, custodial account, or deferred compensation plan by the employer. A third-party administrator that is affiliated with or has a contractual relationship with a provider of annuity contracts, custodial accounts, or deferred compensation plans shall disclose the existence of the relationship to each employer and each individual participant in the annuity contract, custodial account or deferred compensation plan.

(e) Any personal information obtained by the third-party administrator in providing services pursuant to this section shall be used by the

third-party administrator only to provide those services for the employer in accordance with the contract entered into with the employer pursuant to subdivision (b).

(f) Nothing in this section shall be construed to interfere with either:

(1) The rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(2) The ability of the employer to establish nonarbitrary requirements upon providers of an annuity contract that, in the employer's discretion, aid in the administration of its benefit programs and do not unreasonably discriminate against any provider of an annuity contract or interfere with the rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(g) This section shall not apply to any services provided by a third-party administrator pursuant to a contract for services between an employer and the State Teachers' Retirement System. Any services provided by a third-party administrator pursuant to a contract for services between an employer and the State Teachers' Retirement System shall be subject to either Section 24953, in the case of an annuity contract or custodial account, or Section 24977, in the case of a deferred compensation plan.

SEC. 8. Section 87040 of the Education Code is amended to read:

87040. (a) (1) The governing board of each community college district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes:

(A) Paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner.

(B) Paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his dependents, issued by a nonprofit corporation subject to Part 2 (commencing with Section 5110) of, Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(D) Paying periodic charges on any legal services contract for the benefit of the employee, or his dependents issued by a nonprofit corporation subject to Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(2) The requirements of this subdivision shall not apply to subdivision (b).

(b) For purposes of a deferred compensation plan authorized by Section 403(b) or 457 of the Internal Revenue Code or an annuity program authorized by Section 403(b) of the Internal Revenue Code that is offered by the community college district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the California Constitution, the governing board of each community college district when drawing an order for the salary payment due to an employees of the district shall, with or without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for participating in a deferred compensation plan or annuity program offered by the community college district. The governing board shall determine the cost of performing the requested deduction and may collect that cost from the organization, entity, or employee requesting or authorizing the deduction. For purposes of this subdivision, the governing board of a community college district is entitled to include in the amounts reducing the order the costs of any compliance or administrative services that are required to perform the requested deduction in compliance with federal or state law, and may collect these costs from the participating employee, the employee's participant account, or the organization or entity authorizing the deduction.

(c) The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his authorization for the deduction up to one month in advance of the effective date of coverage.

(d) "Group insurance" as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the community college district or an employee organization but it shall, nevertheless, include annuity programs

authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

SEC. 9. Section 87040.5 is added to the Education Code, to read:

87040.5. (a) For purposes of this section, the following definitions shall apply:

(1) "Annuity contract" means an annuity contract described in Section 403(b) of the Internal Revenue Code that is available to employees as described in Section 770.3 of the Insurance Code.

(2) "Custodial account" means a custodial account described in Section 403(b)(7) of the Internal Revenue Code.

(3) "Deferred compensation plan" means a plan described in Section 457 of the Internal Revenue Code.

(4) "Third-party administrator" means a person or entity that provides administrative or compliance services to a community college district as described in subdivision (b).

(b) A community college district may enter into a written contract with a third-party administrator for services regarding an annuity contract and custodial account or a deferred compensation plan provided by the community college district. That contract may include any of the following:

(1) Services to ensure compliance with either Section 403(b) of the Internal Revenue Code regarding the annuity contract and custodial account or Section 457 of the Internal Revenue Code regarding a deferred compensation plan including, but not limited to, any of the following:

(A) Administer and maintain written plan documents governing the community college district's plan.

(B) Review and authorize hardship withdrawal requests under Section 403(b) of the Internal Revenue Code, transfer requests, loan requests, unforeseeable emergency withdrawals under Section 457 of the Internal Revenue Code and other disbursements permitted under either Section 403(b) or 457 of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in an annuity contract and custodial account.

(E) Administer and maintain specimen salary reduction agreements for the community college district and employees of that community college district to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to subparagraph (2), through information provided by the community

college district, or through information provided by vendors authorized by the community college district to provide investment products, the maximum contributions allowed by employees participating in either the annuity contract and custodial account as described in Sections 402(g), 414(v), and 415 of the Internal Revenue Code or the deferred compensation plan as described in Sections 414(v) or 457 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the community college district to the annuity contract and custodial account or deferred compensation plan.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's annuity contract and custodial account or deferred compensation plan as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the annuity contract and custodial account or deferred compensation plan.

(2) Services to administer the annuity contract and custodial account or a deferred compensation plan that includes, but is not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the annuity contract and custodial account or the deferred compensation plan that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the community college district to ensure compliance with either Section 403(b) or 457 of the Internal Revenue Code and compliance with Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of a community college district, of a provider's plan compliance procedures with respect to the provider's annuity contract or custodial account offered under the community college district's plan. These audits shall not be conducted more than once per year for any provider's plan unless documented evidence indicates a problem in complying with either Section 403(b) or 457 of the Internal Revenue Code.

(c) (1) If a community college district elects to contract with a third-party administrator for the administrative or compliance services to community college districts described in subdivision (b), the community college district shall do all of the following:

(A) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the community

college district to be sufficient to protect the assets of participants and beneficiaries in the annuity contract and custodial account or deferred compensation plan.

(B) Require the third-party administrator to provide evidence of a safe chain-of-custody of assets process for ensuring fulfillment of fiduciary responsibilities and timely placement of participant investments.

(C) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 403(b) or 457 of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data unless access to the data is required to provide the services in accordance with the contract entered into with the community college district pursuant to subdivision (b).

(2) This subdivision shall apply to any administrative or compliance services provided pursuant to a contract for services between a community college district and the State Teachers' Retirement System if the system does not contract with a third-party administrator to provide those administrative and compliance services on behalf of the system.

(d) A third-party administrator shall disclose to any community college district seeking his or her services any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the administrator, a related entity, or a representative or agent of the administrator or related entity from any plan provider selected as a vendor of an annuity contract, custodial account, or deferred compensation plan by the community college district. A third-party administrator that is affiliated with or has a contractual relationship with a provider of annuity contracts, custodial accounts, or deferred compensation plans shall disclose the existence of the relationship to each community college district and each individual participant in the annuity contract, custodial account or deferred compensation plan.

(e) Any personal information obtained by the third-party administrator in providing services pursuant to this section shall be used by the third-party administrator only to provide those services for the community college district in accordance with the contract entered into with the community college district pursuant to subdivision (b).

(f) Nothing in this section shall be construed to interfere with either:

(1) The rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(2) The ability of the community college district to establish nonarbitrary requirements upon providers of an annuity contract that, in the community college district's discretion, aid in the administration of its benefit programs and do not unreasonably discriminate against any

provider of an annuity contract or interfere with the rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(g) This section shall not apply to any services provided by a third-party administrator pursuant to a contract for services between a community college district and the State Teachers' Retirement System. Any services provided by a third-party administrator pursuant to a contract for services between a community college district and the State Teachers' Retirement System shall be subject to either Section 24953, in the case of an annuity contract or custodial account, or Section 24977, in the case of a deferred compensation plan.

CHAPTER 781

An act to amend Section 11322.6 of, and to add Section 11155.6 to, the Welfare and Institutions Code, relating to CalWORKs, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 11155.6 is added to the Welfare and Institutions Code, to read:

11155.6. (a) (1) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits.

(2) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 plan college savings plan, or Coverdell ESA, shall not be excluded from consideration as property when determining eligibility and the amount of assistance only with respect to an applicant for benefits who is not a recipient of CalWORKs benefits.

(b) For purposes of this section, the following terms have the following meanings:

(1) "401(k) plan" means a deferred compensation plan that satisfies the requirements of Section 401(k) of the Internal Revenue Code.

(2) "403(b) plan" means a qualified annuity plan that satisfies the requirements of Section 403(b) of the Internal Revenue Code.

(3) "IRA" means an individual retirement account that satisfies the requirements of Section 408 of the Internal Revenue Code.

(4) "457 plan" means a deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code.

(5) "529 college savings plan" means a qualified tuition program that satisfies the requirements of Section 529 of the Internal Revenue Code.

(6) "Coverdell ESA" means an education savings account that satisfies the requirements of Section 530 of the Internal Revenue Code.

SEC. 2. Section 11322.6 of the Welfare and Institutions Code is amended to read:

11322.6. The welfare-to-work plan developed by the county welfare department and the participant pursuant to this article shall provide for welfare-to-work activities. Welfare-to-work activities may include, but are not limited to, any of the following:

(a) Unsubsidized employment.

(b) Subsidized private sector employment.

(c) Subsidized public sector employment.

(d) Work experience, which means public or private sector work that shall help provide basic job skills, enhance existing job skills in a position related to the participant's experience, or provide a needed community service that will lead to employment. Unpaid work experience shall be limited to 12 months, unless the county welfare department and the recipient agree to extend this period by an amendment to the welfare-to-work plan. The county welfare department shall review the work experience assignment as appropriate and make revisions as necessary to ensure that it continues to be consistent with the participant's plan and effective in preparing the participant to attain employment.

(e) On-the-job training.

(f) (1) Grant-based on-the-job training, which means public or private sector employment or on-the-job training in which the recipient's cash grant, or a portion thereof, or the aid grant savings resulting from employment, or both, is diverted to the employer as a wage subsidy to partially or wholly offset the payment of wages to the participant, so long as the total amount diverted does not exceed the family's maximum aid payment. A county shall not assign a participant to grant-based on-the-job training unless and until the participant has voluntarily agreed to participate in grant-based on-the-job training by executing a voluntary consent form, which shall be developed by the department.

(2) Grant-based on-the-job training shall include community service positions pursuant to Section 11322.9.

(3) Any portion of a wage from employment that is funded by the diversion of a recipient's cash grant, or the grant savings from employment pursuant to this subdivision, or both, shall not be exempt under Section 11451.5 from the calculation of the income of the family for purposes of subdivision (a) of Section 11450.

(g) Supported work or transitional employment, which means forms of grant-based on-the-job training in which the recipient's cash grant, or a portion thereof, or the aid grant savings from employment, is diverted to an intermediary service provider, to partially or wholly offset the payment of wages to the participant.

(h) Workstudy.

(i) Self-employment.

(j) Community service.

(k) Adult basic education, which shall include reading, writing, arithmetic, high school proficiency, or general educational development certificate of instruction, and English-as-a-second-language. Participants under this subdivision shall be referred to appropriate service providers that include, but are not limited to, educational programs operated by school districts or county offices of education that have contracted with the Superintendent of Public Instruction to provide services to participants pursuant to Section 33117.5 of the Education Code.

(*l*) Job skills training directly related to employment.

(m) Vocational education and training, including, but not limited to, college and community college education, adult education, regional occupational centers, and regional occupational programs.

(n) Job search and job readiness assistance, which means providing the recipient with training to learn job seeking and interviewing skills, to understand employer expectations, and learn skills designed to enhance an individual's capacity to move toward self-sufficiency, including financial management education.

(o) Education directly related to employment.

(p) Satisfactory progress in secondary school or in a course of study leading to a certificate of general educational development, in the case of a recipient who has not completed secondary school or received such a certificate.

(q) Mental health, substance abuse, and domestic violence services, described in Sections 11325.7 and 11325.8, and Article 7.5 (commencing with Section 11495), that are necessary to obtain and retain employment.

(r) Other activities necessary to assist an individual in obtaining unsubsidized employment.

Assignment to an educational activity identified in subdivisions (k), (m), (o), and (p) is limited to those situations in which the education is needed to become employed.

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 782

An act to add and repeal Section 5056.5 to the Penal Code, relating to corrections.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 5056.5 is added to the Penal Code, to read:

5056.5. (a) On or before July 1, 2007, the Secretary of the Department of Corrections and Rehabilitation shall establish a Reentry Advisory Committee. The committee shall report to the secretary, who shall serve as chair of the committee. The committee shall include representation from stakeholders in the successful administration of reentry programming and shall be comprised of the following members, appointed by the secretary:

(1) A representative of the California League of Cities.

(2) A representative of the California State Association of Counties.

(3) A representative of the California State Sheriffs' Association.

(4) A representative of the California Police Chiefs' Association.

(5) A representative of the Department of Corrections and Rehabilitation Adult Parole Operations.

(6) A representative of the Department of Mental Health.

(7) A representative of the Department of Social Services.

(8) A representative of the Department of Health Services.

(9) A representative of the Labor and Workforce Development Agency.

(10) A representative of the County Alcohol and Drug Program Administrators Association.

(11) A representative of the California Association of Alcohol and Drug Program Executives.

(12) An individual with experience in providing housing for low-income individuals.

(13) A recognized expert in restorative justice programs.

(14) An individual with experience in providing education and vocational training services.

(15) An independent consultant with expertise in community corrections and reentry services.

(b) The Reentry Advisory Committee shall meet at least quarterly at a time and place determined by the secretary. Committee members shall receive compensation for travel expenses pursuant to existing regulations, but no other compensation.

(c) The Reentry Advisory Committee shall advise the secretary on all matters related to the successful statewide planning, implementation, and outcomes of all reentry programs and services provided by the department, with the goal of reducing recidivism of all persons under the jurisdiction of the department. The committee shall consider and advise the secretary on the following issues:

(1) Encouraging collaboration among key stakeholders at the state and local levels.

(2) Developing a knowledge base of what people need to successfully return to their communities from prison and what resources communities need to successfully provide for these needs.

(3) Incorporating reentry outcomes into department organizational missions and work plans as priorities.

(4) Funding of reentry programs.

(5) Promoting systems of integration and coordination.

(6) Measuring outcomes and evaluating the impact of reentry programs.

(7) Educating the public about reentry programs and their role in public safety.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later statute, that is enacted before January 1, 2011, deletes or extends that date.

CHAPTER 783

An act to add Chapter 7.5 (commencing with Section 56846) to Part 30 of the Education Code, relating to pupils, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Chapter 7.5 (commencing with Section 56846) is added to Part 30 of the Education Code, to read:

Chapter 7.5. Autism Training and Information

56846. (a) The Legislature hereby finds and declares all of the following:

(1) Autism is the fastest growing special education eligibility category for public education in California and the nation. In the years between 1998 and 2002, the number of pupils with autism receiving services in California almost doubled, from 10,360 to 20,377. These numbers have continued to climb at a surprising rate. In 2004, there were 4,427 additional pupils diagnosed with autism, an increase of 18 percent.

(2) Autism is not a rare disorder. It is a major public health problem that must be better addressed by the State Department of Education, the State Department of Developmental Services, the State Department of Social Services, the state public school system regional centers, and all other entities assisting children with autism.

(3) Significant gains have been made in the expansion of research related to autism and related neurodevelopmental disorders. The findings of this research need to be more fully disseminated to parents, families, school districts, nonpublic schools, and regional centers throughout the state.

(b) Accordingly, it is the intent of the Legislature, in enacting Schedule (1) of Item 4300-101-0001 of Section 2.00 of the Budget Act of 2006 (Ch. 47, Stats. 2006), which, funded the Autistic Spectrum Disorders Initiative of the State Department of Developmental Services, and this chapter, to allow the identification and dissemination of research-based recommended practices and professional development programs for children with autism to be fully accessible and available to parents and educators.

56846.2. (a) For purposes of this chapter, a "pupil with autism" is a pupil who exhibits autistic-like behaviors, including, but not limited to, any of the following behaviors, or any combination thereof:

(1) An inability to use oral language for appropriate communication.

(2) A history of extreme withdrawal or of relating to people inappropriately, and continued impairment in social interaction from infancy through early childhood.

(3) An obsession to maintain sameness.

(4) Extreme preoccupation with objects, inappropriate use of objects, or both.

(5) Extreme resistance to controls.

(6) A display of peculiar motoric mannerisms and motility patterns.

(7) Self-stimulating, ritualistic behavior.

(b) The definition of "pupil with autism" in subdivision (a) shall not apply for purposes of the determination of eligibility for services pursuant

to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

56847. (a) (1) The Superintendent shall convene, with input from the University of California, the California State University, relevant fiscal and policy standing committees of the Legislature, the Legislative Blue Ribbon Commission on Autism established under Resolution Chapter 124 of the Statutes of 2005, the State Department of Developmental Services, and other appropriate entities, an advisory committee to develop recommendations identifying the means by which public and nonpublic schools, including charter schools, can better serve pupils with autism and their parents.

(2) The advisory committee shall be composed of parents of children with autism, school district administrators, teachers, representatives of county offices of education, representatives of special education local plan areas, representatives of nonpublic, nonsectarian schools and agencies, autism research specialists, physicians who possess a background or expertise in a pertinent medical field, such as psychiatry or behavioral science, and individuals with a recognized expertise in the best practices for providing instruction to children with autism.

(b) The recommendations developed by the advisory committee shall include, but are not limited to, all of the following:

(1) Developing a policy on the most effective manner of informing schools about the status of educationally related research and outreach services available to children with autism and their families. It is the intent of the Legislature that schools utilize that information to develop educationally related programs and services for children with autism.

(2) Creating a statewide clearinghouse for information on the findings of educationally related research-based, recommended practices to support children with autism that can be disseminated to schools, parents, and other interested parties. These educationally related practices shall include, but are not limited to, the early detection of, and development of, coordinated services to children with autism and the professional development of pertinent individuals.

(3) The feasibility and need for establishing a program that would provide technical assistance to schools on all of the following subjects:

(A) The identification and diagnosis of autism spectrum disorders.

(B) The development of research-based programs that best serve children with autism in order for them to succeed academically.

(C) The development of a research-based professional development program to train teachers and administrators on the best practices for providing instruction to children with autism.

(c) The recommendations developed by the advisory committee shall not be construed or applied as state-imposed standards or binding on

any individualized education program (IEP) team, special education official, or child with autism. This chapter does not prescribe or define an appropriate educational or habilitative program for a child with autism.

(d) The recommendations developed by the advisory committee do not govern the services and supports provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code). This chapter does not prescribe or define an appropriate individualized family service plan pursuant to Section 95020 of the Government Code or an individual program plan pursuant to Sections 4646 to 4648, inclusive, of the Welfare and Institutions Code for a child with autism.

(e) On or before November 1, 2007, the advisory committee shall submit its recommendations to the Legislature and to the Governor.

SEC. 2. The amount of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for purposes of this act.

CHAPTER 784

An act to amend Sections 12071, 12072, 12078, and 12082 of, and to repeal and add Section 12083 of, the Penal Code, relating to firearms.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 12071 of the Penal Code is amended to read:

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

(A) A valid federal firearms license.

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

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

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

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

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

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses

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

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

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

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

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

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

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

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

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

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

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

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited

to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

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

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

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

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

(i) The building designated in the license.

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

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

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

(3) No firearm shall be delivered:

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

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

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

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

and that the person may obtain from the department the reason for the prohibition.

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

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

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (a) of Section 12316.

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

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

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

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

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN

TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

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

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

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

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

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

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered,

if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

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

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

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

(V) Load one bright orange, red, or other readily identifiable dummy round into the magazine. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

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

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

(VIII) Remove the magazine.

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

(X) Lock the slide back to eject the bright orange, red, or other readily identifiable dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

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

(I) Open the cylinder.

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

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

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

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

(VIII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

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

(I) Open the loading gate.

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

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

(IV) Load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

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

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

(VII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

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

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

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

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

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

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

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

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

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

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

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

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

(13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), all firearms that are in the inventory of the licensee shall be kept within the licensed location. The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

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

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

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

(15) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).

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

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

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

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

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

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

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

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

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

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any

firearm that is not delivered within the time period set forth in Section 478.102 (c) of Title 27 of the Code of Federal Regulations.

(20) (A) Firearms dealers may require any agent who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the department pursuant to paragraph (4) of subdivision (a). The agent or employee shall provide on the application, the name and California firearms dealer number of the firearms dealer with whom he or she is employed.

(B) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(C) If the local jurisdiction requires a background check of the agents or employees of the firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subparagraph (A).

(D) Nothing in this paragraph shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105 or prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility, provided however, that the local jurisdiction may not charge a fee for the additional criminal history check.

(E) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in clause (ii) of subparagraph (G) of this paragraph.

(F) Nothing in this paragraph shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.

(G) For purposes of this section, the following definitions shall apply:

(i) An "agent" is an employee of the licensee.

(ii) "Secured" means a firearm that is made inoperable in one or more of the following ways:

(I) The firearm is inoperable because it is secured by a firearms safety device listed on the department's roster of approved firearms safety devices pursuant to subdivision (d) of Section 12088 of this chapter.

(II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards for department-approved gun safes set forth in Section 12088.2.

(III) The firearm is stored in a distinct locked room or area in the building that is used to store firearms that can only be unlocked by a key, a combination, or similar means.

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

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

(A) A valid California driver's license.

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

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

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

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

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least ½-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

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

(B) All windows are covered with steel bars.

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

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

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

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

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

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

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 478.124, Section 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

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

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

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.

(3) Information compiled from the list shall be made available, upon request, for the following purposes only:

(A) For law enforcement purposes.

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

(C) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(4) Information provided pursuant to paragraph (3) shall be limited to information necessary to corroborate an individual's current license status as being one of the following:

(A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who is not subject to the requirement that he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

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

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

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

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

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

SEC. 2. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section

12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3) (A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(B) Subparagraph (A) shall not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any person who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(7) The dealer shall comply with the provisions of paragraph (19) of subdivision (b) of Section 12071.

(8) No person shall sell or otherwise transfer his or her ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(A) The name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number assigned to that firearm.

(B) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 12092.

(9) (A) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(B) Subparagraph (A) shall not apply to any of the following:

(i) Any law enforcement agency.

(ii) Any agency duly authorized to perform law enforcement duties.

(iii) Any state or local correctional facility.

(iv) Any private security company licensed to do business in California.

(v) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of his or her employment as a peace officer.

(vi) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(vii) Any person who may, pursuant to Section 12078, claim an exemption from the waiting period set forth in subdivision (c) of this section.

(viii) Any transaction conducted through a licensed firearms dealer pursuant to Section 12082.

(ix) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto and who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(x) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(xi) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.

(xii) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

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

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

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

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

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

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one's identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

(f) (1) (A) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not deliver, sell, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the department. If Internet service is unavailable to either the department or the licensee due to a technical or other malfunction, or a federal firearms licensee who is located outside of California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section. This subdivision shall not apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled shotgun, as defined in Section 12020, or to a machinegun as defined in Section 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and 12276.5.

(B) For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a) of Section 12083, or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086.

(C) If the department finds that the intended recipient is on one of these lists, the department shall issue to the inquiring party, a unique identification number for the intended delivery, sale, or transfer. In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm. The person intending to deliver, sell, or transfer the firearm shall provide the unique verification number to the recipient along with the firearm upon delivery, in a manner to be determined by the department.

(D) If the department finds that the intended recipient is not on one of these lists, the department shall notify the inquiring party that the intended recipient is ineligible to receive the firearm.

(E) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(2) (A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).

(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

(iv) Sell or transfer the firearm to a sheriff or police department.

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

(C) The provisions of this paragraph are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

(D) (i) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this paragraph to ensure a high degree of publicity of the provisions of this paragraph.

(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

(II) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.

(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4) (A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g) (1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars ($50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars ($100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 3. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071 and 12072 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer shall keep the certification with the record of sale. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law

enforcement or state agency. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(3) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.

(4) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(5) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm prior to delivery is deactivated or rendered inoperable.

(C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

(D) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(E) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(F) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, the name of the government entity delivering the firearm, and the make, model, serial number, and other identifying characteristics of the firearm and the name of the person authorized by the entity to take possession of the firearm shall be reported to the department in a manner prescribed by the department.

(G) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm is deactivated or rendered inoperable prior to delivery.

(C) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.

(D) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be

transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(E) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that public or private historical society, museum or institutional collection within 30 days of taking possession of that handgun, shall forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, that includes information identifying the person representing that public or private historical society, museum, or institutional collection, how title was obtained and from whom, and a description of the firearm in question, along with a copy of the written statement referred to in subparagraph (D). The report forms that are to be completed pursuant to this paragraph shall be provided by the Department of Justice.

(F) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(b) (1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of a handgun to a person licensed pursuant to Section 12071, where the licensee is receiving the handgun in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(c) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a handgun by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a handgun by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and all of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) The person taking title to the firearm shall first obtain a handgun safety certificate.

(C) The person receiving the firearm is 18 years of age or older.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited from owning or possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by Section 8100 or 8103 of the Welfare and Institutions Code.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18 years of age or older.

(e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a handgun, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation

from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a handgun at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil

Procedure, nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(B) If the person taking title or possession is receiving the firearm pursuant to subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of the following:

(i) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(ii) Prior to taking title or possession of the firearm, the person shall obtain a handgun safety certificate.

(C) Where the person receiving title or possession of the handgun is a person described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the handgun is a person described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this

subparagraph unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12021.3, 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not handguns by a dealer to another dealer upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(*l*) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a handgun or who moves out of this state with

his or her handgun may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a handgun by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071 by complying with paragraph (1) of subdivision (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c), (d), and paragraph (1) of subdivision (f) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall not apply to the transfer or loan of a firearm that is not a handgun to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall not apply to the transfer or loan of a firearm that is not a handgun to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall not apply to the sale of a handgun if both of the following requirements are satisfied:

(A) The sale is to a person who is at least 18 years of age.

(B) The firearm is an antique firearm as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) (1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the infrequent loan of an unloaded firearm by a person who is neither a dealer as defined in Section 12071 nor a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person 18 years of age or older for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a person who is not a dealer as defined in Section 12071 but who is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The person loaning the firearm pursuant to this paragraph shall retain a photocopy of the

entertainment firearms permit as proof of compliance with this requirement.

(3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(t) (1) The waiting period described in Section 12071 or 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) and paragraph (1) of subdivision (f) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) "A person taking title or possession of firearms by operation of law" includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

SEC. 4. Section 12082 of the Penal Code is amended to read:

12082. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars ($10) per firearm, and no other fee may be charged by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to this section, except for the applicable fee that the Department of Justice may charge pursuant

to Section 12076. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The fee that the department may charge is the fee that would be applicable pursuant to Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee or a person being loaned a firearm, without any other parties being involved in the transaction.

(b) The Attorney General shall adopt regulations under this section to do all of the following:

(1) Allow the seller or transferor of the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.

(2) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, to allow a personal handgun importer's ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of his or her ownership can be maintained in the registry provided by subdivision (c) of Section 11106.

(3) Ensure that the register or record of electronic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal handgun importer in addition to any other information required by Section 12077.

(c) Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

(d) A violation of this section by a dealer is a misdemeanor.

SEC. 5. Section 12083 of the Penal Code is repealed.

SEC. 6. Section 12083 is added to the Penal Code, to read:

12083. (a) Commencing January 1, 2008, the Department of Justice shall keep a centralized list of persons who identify themselves as being licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer or manufacturer of firearms whose licensed premises are within this state and who declare to the department an exemption from the firearms dealer licensing requirements of Section 12070. The list shall be known as the

centralized list of exempted federal firearms licensees. To qualify for placement on the centralized list, an applicant shall do all of the following:

(1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms.

(2) Maintain eligibility under California law to possess firearms by possessing a current, valid certificate of eligibility pursuant to Section 12071.

(3) Maintain with the department a signed declaration enumerating the applicant's statutory exemptions from licensing requirements of Section 12070. Any person furnishing a fictitious name, knowingly furnishing any incorrect information, or knowingly omitting any information for the declaration shall be guilty of a misdemeanor.

(b) Commencing January 1, 2008, the department shall assess an annual fee of one hundred fifteen dollars ($115) to cover its costs of maintaining the centralized list of exempted federal firearms licensees prescribed by subdivision (a), conducting inspections in accordance with this section, and for the cost of maintaining the firearm shipment verification number system described in subdivision (f) of Section 12072. The department may increase the fee at a rate not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. The fees collected shall be deposited in the Dealers' Record of Sale Special Account.

(c) (1) Any person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed premises are within this state shall not import or receive firearms from any source unless listed on the centralized list of firearms dealers pursuant to Section 12071, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a), or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086.

(2) A violation of this subdivision is a misdemeanor.

(d) (1) All persons on the centralized list of exempted federal firearms licensees prescribed by subdivision (a) shall record and keep on file for three years, the verification number that shall accompany firearms received from other federal firearms licensees pursuant to subdivision (f) of Section 12072.

(2) A violation of this subdivision is cause for immediate removal from the centralized list.

(e) Information compiled from the list described in subdivision (a) shall be made available for the following purposes:

(1) Requests from local, state, and federal law enforcing agencies and the duly constituted city, county, and city and county licensing authorities.

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

(f) The department may conduct onsite inspections at the business premises of a person on the centralized list described in subdivision (a) to determine compliance with firearms laws pursuant to Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code. The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that licensees are not subject to duplicative inspections. During the inspection the following firearm records shall be made available for review:

(1) Federal records referred to in subdivision (a) of Section 478.125 of Title 27 of the Code of Federal Regulations and the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

(2) Verification numbers issued pursuant to subdivision (f) of Section 12072.

(3) Any other records requested by the department to determine compliance with this article.

(g) The department may remove from the centralized list described in subdivision (a), any person who violates this article.

(h) The department may adopt regulations as necessary to carry out the provisions of this section, subdivision (f) of Section 12072, and Section 12071. The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that state regulations are not duplicative of federal regulations.

SEC. 7. The Legislature finds and declares the following:

Section 6 of this act, which adds Section 12083 of the Penal Code, imposes a limitation on the public's right of access to 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:

(a) The Legislature has endeavored to protect the privacy interests of firearms owners with prior legislation such as subdivision (e) of Section 12071 and Section 12288.5. This legislation will provide the same protections as prior legislation.

(b) Unlike California licensed dealers, federal firearms licensees that are not operating as dealers may possess firearms in unsecured locations. In light of the potential for firearms thefts, the names and addresses of those licenseholders should not be made available to the general public.

(c) In order to prevent identity theft and persons fraudulently posing as federal firearms licensees, the names, addresses, and license numbers of federal firearms licensees should be kept confidential except for law enforcement purposes or to verify the authenticity of a license for purposes of firearms transactions.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 785

An act to amend Section 65584.04 of the Government Code, relating to housing.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors

listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local

jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 2. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect that land is not adequate

to avoid the risk of flooding such that the development of housing on that land would be infeasible because of cost or other considerations. Information from the Reclamation Board, the Army Corps of Engineers, or other sources may be used to support determinations made pursuant to this subparagraph.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation

to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 3. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the

allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to

maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Adopted spheres of influence for all local agencies in the region.

(11) Adopted policies of the local agency formation commission.

(12) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions

within the region, or delegate subregion as applicable, and to the department.

SEC. 4. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request

for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding such that the development of housing on that land would be infeasible because of cost or other considerations. Information from the Reclamation Board, the Army Corps of Engineers, or other sources may be used to support determinations made pursuant to this subparagraph.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Adopted spheres of influence for all local agencies in the region.

(11) Adopted policies of the local agency formation commission.

(12) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 65584.04 of the Government Code proposed by both this bill and AB

802. 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 65584.04 of the Government Code, and (3) AB 2158 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 802, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 65584.04 of the Government Code proposed by both this bill and AB 2158. 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 65584.04 of the Government Code, (3) AB 802 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2158 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 65584.04 of the Government Code proposed by this bill, AB 802, and AB 2158. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2007, (2) all three bills amend Section 65584.04 of the Government Code, and (3) this bill is enacted after AB 802 and AB 2158, in which case Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 786

An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 2828 of the Public Utilities Code is amended to read:

2828. (a) As used in this section, the following terms have the following meanings:

(1) "Appropriate TOU tariff" means the Time-of-Use tariff that would be applicable to the City and County of San Francisco account at the photovoltaic electricity generation facility site if the facility at the site were a Pacific Gas and Electric Company bundled customer, as determined by Pacific Gas and Electric Company.

(2) "Environmental attributes" associated with the Hetch Hetchy Water and Power (HHWP) at-site solar generation and HHWP remote

solar generation include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled, resulting from the avoidance of the emissions of any gas, chemical, or other substance attributable to the Hetch Hetchy Water and Power photovoltaic electricity generation facility owned by the City and County of San Francisco.

(3) "HHWP at-site solar generation" means the electricity generated by Hetch Hetchy Water and Power photovoltaic electricity generation facilities owned by the City and County of San Francisco, designated by the City and County of San Francisco pursuant to subdivision (b).

(4) "HHWP remote solar generation" means the electricity generated by Hetch Hetchy Water and Power photovoltaic electricity generation facilities owned by the City and County of San Francisco, designated by the City and County of San Francisco pursuant to subdivision (h), to provide electricity to qualifying remote load.

(5) "Interconnection Agreement" means the 1987 agreement between Pacific Gas and Electric Company and the City and County of San Francisco, as filed with and accepted by the Federal Energy Regulatory Commission (FERC), and as amended from time to time with FERC approval, which provides for rates for transmission, distribution, and sales of supplemental electricity to the City and County of San Francisco. Nothing in this section shall waive or modify the rights of parties under the Interconnection Agreement or the jurisdiction of the FERC over rates set forth in the Interconnection Agreement.

(6) "Qualifying remote load" means the electricity demand of the City and County of San Francisco for load served under the Interconnection Agreement, at sites that are separate from, and not adjacent to, the sites where the photovoltaic electricity generation facility is located, and serviced through a meter or multiple meters other than those serving the sites where the photovoltaic electricity generation facility is located. The separate or remote sites may be designated by the City and County of San Francisco, both inside and outside of the City and County of San Francisco. Where the separate or remote sites are outside of the City and County of San Francisco, they shall be located within 20 miles of the City and County of San Francisco or within 20 miles of a HHWP remote solar generation facility. There is no wattage limit on qualifying remote load.

(b) The City and County of San Francisco may elect to designate specific photovoltaic electricity generation facilities as HHWP at-site solar generation, if all of the following conditions are met:

(1) Total peak generating capacity does not exceed 15 megawatts.

(2) The photovoltaic electricity generation facility utilizes a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide "time-of-use" measurement information. If the existing meter at the site of the facility is not capable of providing time-of-use information or is not capable of separately measuring total flow of energy in both directions, the City and County of San Francisco is responsible for all expenses involved in purchasing and installing a meter or meters that are both capable of providing time-of-use information and able to separately measure total electricity flow in both directions.

(3) The amount of all electricity delivered to the electric grid by the designated HHWP at-site solar generation is the property of Pacific Gas and Electric Company.

(4) The City and County of San Francisco does not sell electricity delivered to the electric grid from the designated HHWP at-site solar generation to a third party.

(c) For each site of a photovoltaic electricity generation facility that comprises the HHWP at-site solar generation, Pacific Gas and Electric Company shall identify the appropriate TOU tariff for that site. Any electricity exported to the Pacific Gas and Electric Company grid at that site that is not generated from HHWP remote solar generation pursuant to subdivision (h) shall, for each time-of-use period, result in a monetary credit to be applied monthly as a credit or offset against the invoice created pursuant to the Interconnection Agreement and shall be valued at the generation component of the appropriate TOU tariff. The commission shall determine if it is appropriate to increase the credit to reflect any additional value derived from the location or the environmental attributes of, the designated HHWP at-site solar generation.

(d) Monthly charges and credit amounts for HHWP at-site solar generation are interim and subject to an accounting true-up, consistent with commission policies and practices. The true-up shall be performed annually or upon the termination, for any reason, of the Interconnection Agreement. The true-up shall accomplish the following:

(1) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up equals or exceeds the total electricity exported to the grid by the HHWP at-site solar generation facility at the site, the City and County of San Francisco is a net electricity consumer at that site. For any HHWP at-site solar generation site where the City and County of San Francisco is a net electricity consumer, a credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant

to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit.

(2) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up is less than the total electricity exported to the grid by the HHWP at-site solar generation facility at the site, the City and County of San Francisco is a net electricity producer at that site. For any HHWP at-site solar generation site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive no credit or offset for the electricity exported to the grid in excess of the electricity delivered to the site from the grid. For any site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive a credit or offset up to the amount of electricity delivered to the site from the grid. The credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit or offset. Pacific Gas and Electric Company shall use the last-in, first-out method to determine what electricity delivered to the grid from the site will not earn a credit or offset.

(e) Pursuant to this section, the offset to charges under the Interconnection Agreement is the medium to convey credits earned under this section. Nothing in this section shall be construed to affect in any way the rights and obligations of the City and County of San Francisco and Pacific Gas and Electric Company under the Interconnection Agreement. If the Interconnection Agreement terminates, the City and County of San Francisco and Pacific Gas and Electric Company shall develop an alternative mechanism to convey credits earned under this section, in a manner that accomplishes the same result as that accomplished pursuant to the Interconnection Agreement.

(f) (1) Pacific Gas and Electric Company shall file an advice letter with the commission, that complies with this section, not later than 10 days after the City and County of San Francisco first designates the specific photovoltaic electricity generation facilities that will comprise HHWP at-site solar generation.

(2) The commission, within 30 days of the date of filing of the advice letter, shall approve the advice letter or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in an amended advice letter within 30 days.

(g) The City and County of San Francisco may terminate its election pursuant to subdivisions (b), (c), (d), and (h), upon providing Pacific Gas and Electric Company with a minimum of 60 days' written notice.

(h) (1) The City and County of San Francisco may elect to designate specific photovoltaic electricity generation facilities as HHWP remote solar generation and may use HHWP remote solar generation to supply electricity to specific facilities designated as qualifying remote load up to the amount of electricity being used by the qualifying remote load.

(2) The City and County of San Francisco shall receive no credit or offset for the electricity exported to the grid from HHWP remote solar generation, in excess of the electricity delivered from the grid to qualifying remote load.

(3) Pacific Gas and Electric Company shall accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously being used by the qualifying remote load, and treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. Additional rates may apply pursuant to paragraph (6).

(4) The City and County of San Francisco shall be responsible for scheduling the electricity exported to the grid from HHWP remote solar generation.

(5) Both HHWP remote solar generation sites and qualifying remote load sites shall have meters capable of measuring exports and usage of electricity that will support determination of credits or offsets pursuant to paragraph (2). The City and County of San Francisco shall be responsible for the costs of the meters required pursuant to this section.

(6) To compensate Pacific Gas and Electric Company for the use of its facilities, the City and County of San Francisco shall pay applicable distribution rates, transmission rates, or distribution and transmission rates, at rate levels determined by the Interconnection Agreement, for all energy delivered to qualifying remote load that comes from HHWP remote solar generation. When HHWP remote solar generation and the qualifying remote load it serves are located within the City and County of San Francisco and are interconnected at distribution voltage, the applicable rate for delivery of energy from HHWP remote solar generation shall be reduced as negotiated pursuant to the Interconnection Agreement.

(7) The appropriate regulatory agency shall ensure that the delivery of electricity by HHWP remote solar generation to qualifying remote load, and the granting of offsets to the City and County of San Francisco pursuant to this subdivision, do not result in a shifting of costs to bundled service customers, either immediately or over time.

(i) Hetch Hetchy Water and Power shall reimburse Pacific Gas and Electric Company for its reasonable study costs associated with HHWP remote solar generation to address interconnection, consistent with applicable regulatory rules, and impacts upon the electric system resulting

from the HHWP remote solar generation. If the studies identify improvements necessary for the protection of the Pacific Gas and Electric Company electric system, for the protection of its employees, or to ensure reliable delivery of the electricity generated by the HHWP remote solar generation facility to qualifying remote load, Hetch Hetchy Water and Power shall pay the reasonable costs of the improvements if it elects to designate the HHWP remote solar generation facility to provide electricity for qualifying remote load.

(j) Ownership and use of the environmental attributes associated with the electricity delivered to the electric grid by HHWP at-site solar generation and HHWP remote solar generation shall be determined by the commission in accordance with Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable only to Hetch Hetchy Water and Power solar generation of electricity, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

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 787

An act to amend Section 739.1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. It is the intent of the Legislature that the Public Utilities Commission evaluate and make recommendations regarding measures to enable low-income customers participating in the California Alternate Rates for Energy or CARE Program to reduce energy usage and achieve

additional savings through conservation and energy efficiency in a manner that achieves the broadest public benefits at the lowest cost.

SEC. 2. Section 739.1 of the Public Utilities Code is amended to read:

739.1. (a) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(b) The commission shall work with the public utility electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

(c) The commission shall examine methods to improve CARE enrollment and participation. This examination shall include, but need not be limited to, comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees. The commission shall ensure that a customer consents prior to enrollment. The commission shall consult with interested parties, including ULTS providers, to develop the best methods of informing ULTS customers about other available low-income programs, as well as the best mechanism for telephone providers to recover reasonable costs incurred pursuant to this section.

(d) (1) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in California that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations

and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.

(2) The commission shall ensure that an electrical corporation or gas corporation with a commission-approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission-approved assistance program offered by the public utility.

(e) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(f) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the energy crisis of 2000–01.

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 788

An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

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

(a) Post-traumatic stress disorder (PTSD) is an inclusive title for a complex of mental disorders and conditions caused by exposure to severe, violent, and threatening situations like those experienced by military personnel in combat.

(b) Once brushed aside as shell shock or combat fatigue, PTSD was finally recognized as an illness by the American Psychiatric Association in 1980 based upon the psychiatric experience of veterans of the Vietnam war.

(c) During and after the Vietnam war, a significant number of our returning combat veterans were incarcerated because of behavior caused or exacerbated by their misunderstood and untreated PTSD.

(d) In 1982, 10 years after the Vietnam war, the California Legislature passed Section 1170.9 of the Penal Code. That section is not sufficient to cover returning Iraq and Afghanistan veterans.

(e) Therefore, it is the intent of the Legislature to extend the opportunity for alternative sentencing to all combat veterans, regardless of where or when those veterans served our country, when those veterans are found by the court to be suffering from PTSD.

(f) It is not the intent of the Legislature to expand probation eligibility for veterans who commit crimes pursuant to these provisions.

(g) It is the intent of the Legislature to ensure that judges are aware that a criminal defendant is a combat veteran with these conditions at the time of sentencing and to be aware of any treatment programs that exist and are appropriate for the person at the time of sentencing if a sentence of probation is appropriate.

SEC. 2. Section 1170.9 of the Penal Code is amended to read:

1170.9. (a) In the case of any person convicted of a criminal offense who would otherwise be sentenced to county jail or state prison and who alleges that he or she committed the offense as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from service in a combat theater in the United States military, the court shall, prior to sentencing, hold a hearing to determine whether the

defendant was a member of the military forces of the United States who served in combat and shall assess whether the defendant suffers from post-traumatic stress disorder, substance abuse, or psychological problems as a result of that service.

(b) If the court concludes that a defendant convicted of a criminal offense is a person described in subdivision (a), and if the defendant is otherwise eligible for probation and the court places the defendant on probation, the court may order the defendant into a local, state, federal, or private nonprofit treatment program for a period not to exceed that which the defendant would have served in state prison or county jail, provided the defendant agrees to participate in the program and the court determines that an appropriate treatment program exists.

(c) If a referral is made to the county mental health authority, the county shall be obligated to provide mental health treatment services only to the extent that resources are available for that purpose, as described in paragraph (5) of subdivision (b) of Section 5600.3 of the Welfare and Institutions Code. If mental health treatment services are ordered by the court, the county mental health agency shall coordinate appropriate referral of the defendant to the county veterans service officer, as described in paragraph (5) of subdivision (b) of Section 5600.3 of the Welfare and Institutions Code. The county mental health agency shall not be responsible for providing services outside its traditional scope of services. An order shall be made referring a defendant to a county mental health agency only if that agency has agreed to accept responsibility for the treatment of the defendant.

(d) When determining the "needs of the defendant," for purposes of Section 1202.7, the court shall consider the fact that the defendant is a person described in subdivision (a) in assessing whether the defendant should be placed on probation and whether the defendant would be best served while on probation by being ordered into a private nonprofit treatment service program with a demonstrated history of specializing in the treatment of military service-related issues, such as post-traumatic stress disorder, substance abuse, or psychological problems.

(e) A defendant granted probation under this section and committed to a residential treatment program shall earn sentence credits for the actual time the defendant served in residential treatment.

(f) The court, in making an order under this section to commit a defendant to an established treatment program, shall give preference to a treatment program that has a history of successfully treating combat veterans who suffer from post-traumatic stress disorder, substance abuse, or psychological problems as a result of that service.

CHAPTER 789

An act to amend Sections 25400.11, 25400.18, 25400.19, 25400.20, 25400.22, 25400.25, 25400.26, 25400.27, 25400.28, 25400.30, 25400.36, 25400.37, 25400.45, and 25400.46 of, and to add Section 25400.47 to, the Health and Safety Code, relating to contaminated property.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 25400.11 of the Health and Safety Code is amended to read:

25400.11. For purposes of this chapter, the following definitions shall apply:

(a) "Authorized contractor" means a person who has been trained or received other qualifications pursuant to Section 25400.40.

(b) "Contaminated" or "contamination" means property polluted by a hazardous chemical related to methamphetamine laboratory activities.

(c) "Controlled substance" has the same meaning as defined in Section 11007.

(d) "Decontamination" means the process of reducing the level of a known contaminant to a level that is deemed safe for human reoccupancy, as established pursuant to Section 25400.16 using currently available methods and processes.

(e) "Department" means the Department of Toxic Substances Control.

(f) "Designated local agency" means either of the following:

(1) A city or county agency designated by the local health officer to carry out all, or any portion of, responsibilities assigned to the local health office as specified by this chapter. The local health officer may authorize any of the following to serve as a designated local agency:

(A) The Certified Unified Program or CUPA as certified pursuant to Chapter 6.11 (commencing with Section 25404), except in a jurisdiction where the state is acting as the CUPA pursuant to subdivision (f) of Section 25404.3.

(B) The fire department or environmental health department.

(C) The local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(2) For property specified in paragraph (2) of subdivision (t), notwithstanding Section 18300, the city or county agency specified in paragraph (1) authorized by the local health officer in that jurisdiction.

(g) "Disposal of contaminated property" means the disposal of property that is a hazardous waste in accordance with Chapter 6.5 (commencing with Section 25100).

(h) "Hazardous chemical" means a chemical that is determined by the local health officer to be toxic, carcinogenic, explosive, corrosive, or flammable that was used in the manufacture or storage of methamphetamine that is prohibited by Section 11383.

(i) "Illegal methamphetamine manufacturing or storage site" or "site" means property where a person manufactures methamphetamine or stores a hazardous chemical used in connection with the manufacture of methamphetamine in violation of Section 11383.

(j) "Local health officer" means either of the following:

(1) Except as provided in paragraph (2), a county health officer, a city health officer, or an authorized representative of that local health officer.

(2) In the case of property specified in paragraph (2) of subdivision (t), an authorized representative of the designated agency specified in paragraph (2) of subdivision (f).

(k) "Manufactured home" means both of the following:

(1) "Manufactured home," as defined in Section 18007.

(2) "Multi-unit manufactured housing," as defined in Section 18008.7.

(*l*) "Methamphetamine laboratory activity" means the illegal manufacturing or storage of methamphetamine.

(m) "Mobilehome" has the same meaning as defined in Section 18008.

(n) "Mobilehome park" means both of the following:

(1) "Mobilehome park," as defined in Section 18214 or 18214.1.

(2) "Manufactured housing community," as defined in Section 18801.

(o) "Office" means the Office of Environmental Health Hazard Assessment.

(p) "Posting" means attaching a written or printed announcement conspicuously on property that is determined to be contaminated by a methamphetamine laboratory activity or the storage of methamphetamine or a hazardous chemical.

(q) "Preliminary site assessment work plan" or "PSA work plan" means a plan to conduct activities to determine the extent and level of contamination of an illegal methamphetamine manufacturing or storage site and that is prepared in accordance with the requirements of Section 25400.36.

(r) "Preliminary site assessment" or "PSA" means the activities taken to determine the extent and level of contamination of an illegal methamphetamine manufacturing or storage site that are conducted in accordance with an approved PSA work plan.

(s) "Preliminary site assessment report" or "PSA report" means a determination that the levels of contamination at an illegal methamphetamine manufacturing or storage site require remediation, including a recommendation for the remedial actions required for the site to meet human occupancy standards, and that is prepared in accordance with Section 25400.37.

(t) (1) "Property" means a parcel of land, structure, or part of a structure where the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, occurred.

(2) "Property" also includes any of the following where the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, occurred:

(A) A mobilehome park.

(B) A mobilehome or manufactured home located in a mobilehome park or special occupancy park, or a recreational vehicle sited in a mobilehome park or special occupancy park, including any accessory building or structure under the ownership or control of the owner of the manufactured home, mobilehome, or recreational vehicle sited in the mobilehome park or special occupancy park.

(C) A special occupancy park.

(3) If a mobilehome or manufactured home is not located in a mobilehome park or special occupancy park, then paragraph (1) is applicable to that mobilehome or manufactured home.

(u) (1) "Property owner" means a person owning property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action, and who is responsible for the remediation of the property pursuant to this chapter.

(2) "Owner," for purposes of a mobilehome park, means the owner of the real property on which the mobilehome park is located.

(3) "Owner" for purposes of a special occupancy park, means the owner of the real property on which the special occupancy park is located.

(v) "Recreational vehicle" has the same meaning as defined in Section 18010, but only if that vehicle is sited in a mobilehome park or special occupancy park.

(w) "Special occupancy park" has the same meaning as defined in Section 18862.43.

(x) "Storage site" means any property used for the storage of a hazardous chemical or methamphetamine that is prohibited by Section 11383.

(y) "Vehicle license stop" means the Department of Motor Vehicles is prohibited from renewing the registration of a vehicle, or from allowing the transfer of any title to, or interest in, that vehicle.

(z) "Warning" means a sign posted by the local health officer conspicuously on property where methamphetamine was manufactured or stored, informing occupants that hazardous chemicals exist on the premises and that entry is unsafe.

SEC. 2. Section 25400.18 of the Health and Safety Code is amended to read:

25400.18. Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall post a written notice in a prominent location on the premises of the property. At a minimum, the notice shall include all of the following information:

(a) The word "WARNING" in large bold type at the top and bottom of the notice.

(b) A statement that a methamphetamine laboratory was seized on or inside the property or, or in the case of a mobilehome, manufactured home, or recreational vehicle, a statement that a methamphetamine lab was seized on the property, inside the property, or both of those statements.

(c) The date of the seizure.

(d) The address or location of the property including the identification of any dwelling unit, room number, apartment number, or mobilehome, manufactured home, or recreational vehicle space number or address, or recreational vehicle identification number.

(e) The name and contact telephone number of the agency posting the notice on the property.

(f) A statement specifying that hazardous substances, toxic chemicals, or other hazardous waste products may have been present and may remain on or inside the property.

(g) A statement that it is unlawful for an unauthorized person to enter the contaminated portion of the property until advised that it is safe to do so by the local health officer or designated local agency.

(h) A statement that a person disturbing or destroying the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

(i) A statement that a person violating the posted notice is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

SEC. 3. Section 25400.19 of the Health and Safety Code is amended to read:

25400.19. Within five working days after receiving a notification from a law enforcement agency of known or suspected contamination of a property by a methamphetamine laboratory activity, or upon notification from the property owner, the local health officer shall inspect the property, including the mobilehome, manufactured home, or

recreational vehicle and the land on which it is located, pursuant to this section. In the case of a mobilehome, manufactured home, or recreational vehicle, that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall make the determination specified in subdivision (e) of Section 25400.20 regarding the cause of the contamination and responsibility for the remediation required pursuant to this chapter.

(a) The property inspection shall include, but not be limited to, obtaining evidence of hazardous chemical use or storage and documentation of evidence of any chemical stains, cooking activity and release or spillage of hazardous chemicals used to manufacture methamphetamine.

(b) In conducting an inspection pursuant to this section, the local health officer may request copies of any law enforcement reports, forensic chemist reports, and any hazardous waste manifests, to evaluate all of the following:

(1) The length of time the property was used as an illegal methamphetamine manufacturing or storage site.

(2) The extent of the property actually used and contaminated in the manufacture of methamphetamine or the storage of methamphetamine or a hazardous chemical.

(3) The chemical process that was involved in the illegal methamphetamine manufacturing.

(4) The chemicals that were removed from the scene.

(5) The location of the illegal methamphetamine manufacturing or storage site in relation to the habitable areas of the property.

SEC. 4. Section 25400.20 of the Health and Safety Code is amended to read:

25400.20. (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall immediately determine whether the property is contaminated.

(b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.22.

(c) If the local health officer determines that the property is not contaminated, within three working days after making that determination, the local health officer shall remove all notices posted pursuant to Section 25400.18 and prepare a written documentation of this determination, which shall include all of the following:

(1) Findings and conclusions.

(2) Name of the property owner, and, if applicable, mailing and street address or space number of the property or vehicle identification number of the recreational vehicle.

(3) Parcel identification number, if applicable.

(d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the property is not contaminated, the local health officer shall send a copy of the documentation to the property owner, and to the local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(e) In the case of a property specified in paragraph (2) of subdivision (t) of Section 25400.11, the local health officer shall, upon completing the inspection pursuant to Section 25400.19, determine the responsibility for the remediation required pursuant to this chapter in accordance with the following:

(1) Except as provided in paragraph (3), if the land on which the mobilehome, manufactured home, or recreational vehicle is located is contaminated, the owner of the mobilehome park or special occupancy park shall be held responsible for compliance with this chapter.

(2) Except as provided in paragraph (3), if the mobilehome, manufactured home, or recreational vehicle is contaminated, the registered owner of the mobilehome, manufactured home, or recreational vehicle shall be held responsible for compliance with this chapter.

(3) If both the land on which the mobilehome, manufactured home, or recreation vehicle is located is contaminated and the mobilehome, manufactured home, or recreational vehicle itself is contaminated, the local health officer shall determine, based on the local health officer's findings and determinations, whether the owner of the mobilehome park or special occupancy park or the registered owner of the mobilehome, manufactured home, or recreational vehicle, or both, shall be held responsible for compliance with this chapter. The local health officer shall submit a notice to each owner determined to be responsible for remediation, as to the owner's individual responsibility pursuant to this chapter.

(4) If the local health officer makes the determination specified in paragraph (2) or (3), the mobilehome park or special occupancy park manager and the owner of the land on which the mobilehome, manufactured home, or recreational vehicle is located shall also receive a copy of any notice served on the registered owner, lessee, renter, or occupant of the mobilehome, manufactured home, or recreational vehicle.

SEC. 5. Section 25400.22 of the Health and Safety Code is amended to read:

25400.22. (a) No later than 10 working days after the date when a local health officer determines that property is contaminated pursuant to subdivision (b) of Section 25400.20, the local health officer shall do all of the following:

(1) Except as provided in paragraph (2), if the property is real property, record with the county recorder a lien on the property. The lien shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description of the real property and the assessor's parcel number.

(D) The record owner of the property.

(E) The amount of the lien, which shall be the greater of two hundred dollars ($200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the county recorder's fee.

(2) (A) If the property is a mobilehome or manufactured home specified in paragraph (2) of subdivision (t) of Section 25400.11, amend the permanent record with a restraint on the mobilehome, or manufactured home with the Department of Housing and Community Development, in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(B) If the property is a recreational vehicle specified in paragraph (2) of subdivision (t) of Section 25400.11, perfect by filing with the Department of Motor Vehicles a vehicle license stop on the recreational vehicle in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(C) If the property is a mobilehome or manufactured home, not subject to paragraph (2) of subdivision (t) of Section 25400.11, is located on real property, and is not attached to that real property, the local health officer shall record a lien for the real property with the county recorder, and the Department of Housing and Community Development shall amend the permanent record with a restraint for the mobilehome or manufactured home, in the form and with the contents prescribed by that department.

(3) A lien, restraint, or vehicle license stop issued pursuant to paragraph (2) shall specify all of the following:

(A) The name of the agency on whose behalf the lien, restraint, or vehicle license stop is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description of the real property and the assessor's parcel number, and the mailing and street address or space number of the manufactured home, mobilehome, or recreational vehicle or the vehicle identification number of the recreational vehicle, if applicable.

(D) The registered owner of the mobilehome, manufactured home, or recreational vehicle, if applicable, or the name of the owner of the real property as indicated in the official county records.

(E) The amount of the lien, if applicable, which shall be the greater of two hundred dollars ($200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the fee charged by the Department of Housing and Community Development and the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (b).

(F) Other information required by the county recorder for the lien, the Department of Housing and Community Development for the restraint, or the Department of Motor Vehicles for the vehicle license stop.

(4) Issue to persons specified in subdivisions (d), (e), and (f) an order prohibiting the use or occupancy of the contaminated portions of the property.

(b) (1) The county recorder's fees for recording and indexing documents provided for in this section shall be in the amount specified in Article 5 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the Government Code.

(2) The Department of Housing and Community Development and the Department of Motor Vehicles may charge a fee to cover its administrative costs for recording and indexing documents provided for in paragraph (2) of subdivision (a).

(c) (1) A lien recorded pursuant to subdivision (a) shall have the force, effect, and priority of a judgment lien. The restraint amending the permanent record pursuant to subdivision (a) shall be displayed on any manufactured home or mobilehome title search until the restraint is released. The vehicle license stop shall remain in effect until it is released.

(2) The local health officer shall not authorize the release of a lien, restraint, or vehicle license stop made pursuant to subdivision (a), until one of the following occurs:

(A) The property owner satisfies the real property lien, or the contamination in the mobilehome, manufactured home, or recreational vehicle is abated to the satisfaction of the local health officer consistent with the notice in the restraint, or vehicle license stop and the local health officer issues a release pursuant to Section 25400.27.

(B) For a manufactured home or mobilehome, the local health officer determines that the unit will be destroyed or permanently salvaged. For the purposes of this paragraph, the unit shall not be reregistered after this determination is made unless the local health officer issues a release pursuant to Section 25400.27.

(C) The lien, restraint, or vehicle license stop is extinguished by a senior lien in a foreclosure sale.

(d) Except as otherwise specified in this section, an order issued pursuant to this section shall be served, either personally or by certified mail, return receipt requested in the following manner:

(1) For real property, to all known occupants of the property and to all persons who have an interest in the property, as contained in the records of the recorder's office of the county in which the property is located.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code.

(e) If the whereabouts of the person described in subdivision (d) are unknown and cannot be ascertained by the local health officer, in the exercise of reasonable diligence, and the local health officer makes an affidavit to that effect, the local health officer shall serve the order by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, as follows:

(1) The order related to real property shall be served to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located, and to all occupants of the affected unit.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5, at the address appearing on the permanent record and all occupants of the affected unit at the mobilehome park space.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code, at the address appearing on the permanent record and all occupants of the affected vehicle at the mobilehome park or special occupancy park space.

(f) (1) The local health officer shall also mail a copy of the order required by this section to the address of each person or party having a recorded right, title, estate, lien, or interest in the property and to the association of a common interest development, as defined in Section 1351 of the Civil Code.

(2) In addition to the requirements of paragraph (1), if the affected property is a mobilehome, manufactured home, or recreational vehicle, specified in paragraph (2) of subdivision (t) of Section 25400.11, the order issued by the local health officer shall also be served, either personally or by certified mail, return receipt requested, to the owner of the mobilehome park or special occupancy park.

(g) The order issued pursuant to this section shall include all of the following information:

(1) A description of the property.

(2) The parcel identification number, address, or space number, if applicable.

(3) The vehicle identification number, if applicable.

(4) A description of the local health officer's intended course of action.

(5) A specification of the penalties for noncompliance with the order.

(6) A prohibition on the use of all or portions of the property that are contaminated.

(7) A description of the measures the property owner is required to take to decontaminate the property.

(8) An indication of the potential health hazards involved.

(9) A statement that a property owner who fails to provide a notice or disclosure that is required by this chapter is subject to a civil penalty of up to five thousand dollars ($5,000).

(h) The local health officer shall provide a copy of the order to the local building or code enforcement agency or other appropriate agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(i) The local health officer shall post the order in a conspicuous place on the property within one working day of the date that the order is issued.

SEC. 6. Section 25400.25 of the Health and Safety Code is amended to read:

25400.25. (a) A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, a property owner who owns property that is the subject of an order posted pursuant to subdivision (i) of Section 25400.22, and a person occupying property that is the subject of the order, shall immediately vacate the affected unit, including the mobilehome, manufactured home, or recreational vehicle, as applicable, and any accessory building or structure related thereto, that is determined to be in a hazardous zone by the local health officer.

(b) In addition to authority granted by Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of the

Civil Code) and the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code), the owner of a mobilehome park or special occupancy park in which a manufactured home, mobilehome, or recreational vehicle subject to the order is located may terminate tenancy in order to obtain possession of the space by service of a three-day notice to quit in accordance with paragraph (4) of Section 1161 of the Code of Civil Procedure.

(c) No later than 30 days after receipt of an order issued pursuant to Section 25400.22, the property owner shall demonstrate to the local health officer that the property owner has retained a methamphetamine laboratory site remediation firm that is an authorized contractor to remediate the contamination caused by the methamphetamine laboratory activity.

SEC. 7. Section 25400.26 of the Health and Safety Code is amended to read:

25400.26. (a) A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, or a property owner who owns property that is the subject of an order posted pursuant to subdivision (i) of Section 25400.22, shall utilize the services of an authorized contractor to remediate the contamination caused by the methamphetamine laboratory activity, in accordance with the procedures specified in this section.

(b) The property owner and the local health officer shall keep all required records documenting decontamination procedures for three years following certification that the property is habitable.

(c) The property owner or the property owner's authorized contractor shall submit a preliminary site assessment work plan to the local health officer for review no later than 30 days after demonstrating to the local health officer that an authorized contractor has been retained to remediate the contamination caused by the methamphetamine laboratory activity.

(d) (1) No later than 10 working days after the date the PSA work plan is submitted by the property owner, or the property owner's authorized contractor, the local health officer shall review the PSA work plan to determine whether the PSA work plan complies with this chapter, including the procedures established pursuant to Section 25400.35.

(2) If there are any deficiencies in a submitted PSA work plan, the local health officer shall inform the property owner and authorized contractor, in writing, of those deficiencies no later than 15 days of the date that the PSA work plan was submitted to the local health officer.

(3) If the local health officer approves the plan, the local health officer shall inform in writing, the property owner and authorized contractor no

later than 15 days of the date that the PSA work plan was submitted to the local health officer.

(e) (1) After a PSA is completed in accordance with the PSA work plan, the property owner and authorized contractor shall prepare a PSA report in accordance with Section 25400.37 and submit the PSA report to the local health officer.

(2) If after a PSA is completed in accordance with a PSA work plan, and the local health officer, upon review of the PSA report, determines there is no level of contamination at a site that requires remediation, the local health officer shall take the actions specified in Section 25400.27.

(f) The property owner shall complete remediation of all applicable portions of the contaminated property in accordance with this chapter no later than 90 days after the date that the PSA work plan has been approved by the local health officer. The local health officer may extend the date for completion of the remediation, in writing.

(g) If the owner of a mobilehome park performs the remediation on a manufactured home, mobilehome, or recreational vehicle that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, the owner of the mobilehome park shall comply with the property owner requirements in subdivisions (a), (b), (c), (e), and (f), and the local health officer shall provide information to that owner as required by subdivision (d).

SEC. 8. Section 25400.27 of the Health and Safety Code is amended to read:

25400.27. (a) If a local health officer determines that property that has been the subject of a PSA report has been remediated in accordance with this chapter, or if the local health officer makes the determination specified in paragraph (2) of subdivision (e) of Section 25400.26, the local health officer shall issue a no further action determination.

(b) Within 10 working days of the date of making the determination or of receiving payment for the amount of the lien recorded on real property pursuant to paragraph (1) of subdivision (a) of Section 25400.22, whichever is later, the local officer shall do all of the following:

(1) If the real property was the source of the contamination, release the real property lien recorded with the county recorder. The release shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The recording date of the lien being released.

(C) The legal description of the real property and the assessor's parcel number.

(D) The record owner of the property.

(E) The recording instrument, or book and page, of the lien being released.

(2) If a mobilehome or manufactured home that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, was the source of the contamination, release the restraint amended into the permanent record of the Department of Housing and Community Development, if the permanent record was amended previously with a restraint. The release shall specify all of the following:

(A) The name of the agency on whose behalf the restraint was filed.

(B) The date on which the property was determined to be contaminated.

(C) The legal identification number of the unit for which the restraint is being released.

(D) The legal owner, registered owner, and any junior lienholders of the manufactured home or mobilehome.

(3) If a recreational vehicle that is property pursuant to paragraph (2) of subdivision (t) of Section 25400.11, was the source of the contamination, release the vehicle license stop filed with the Department of Motor Vehicles. The release shall specify all of the following:

(A) The name of the agency on whose behalf the vehicle license stop is imposed.

(B) The recording date of the vehicle license stop being released.

(C) The vehicle identification number.

(D) The legal and registered owner of the property.

(4) Send a copy of the release stating that the property was remediated in accordance with this chapter, does not violate the standard for human occupancy established pursuant to this chapter, and is habitable, or was salvaged or destroyed pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 25400.22, to the property owner, owner of the mobilehome park or special occupancy park in which the property is located, to the property owner, local agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13), and all recipients pursuant to this section and Section 25400.22.

SEC. 9. Section 25400.28 of the Health and Safety Code is amended to read:

25400.28. Until a property owner subject to Section 25400.25 receives a notice from a local health officer pursuant to Section 25400.27 that the property identified in an order requires no further action, all of the following shall apply to that property:

(a) Except as otherwise required in Section 1102.3 or 1102.3a of the Civil Code, the property owner shall notify the prospective buyer in writing of the pending order, and provide the prospective buyer with a copy of the pending order. The prospective buyer shall acknowledge, in writing, the receipt of a copy of the pending order.

(b) The property owner shall provide written notice to all prospective tenants that have completed an application to rent an affected dwelling unit or other property of the remediation order, and shall provide the prospective tenant with a copy of the order. The prospective tenant shall acknowledge, in writing, the receipt of the notice and pending order before signing a rental agreement. The notice shall be attached to the rental agreement. If the property owner does not comply with this subdivision, the prospective tenant may void the rental agreement.

(c) (1) If a mobilehome, manufactured home, or recreational vehicle, as specified in paragraph (2) of subdivision (t) of Section 25400.11, is the subject of the order issued by the local health officer pursuant to paragraph (3) of subdivision (a) of Section 25400.22 or the subject of a notice posted pursuant to subdivision (i) of Section 25400.22, the mobilehome, manufactured home, or recreational vehicle shall not be sold, rented, or occupied until the seller or lessor of the mobilehome, manufactured home, or recreational vehicle or the seller's or lessor's agent notifies the prospective buyer or tenant, and the owner of the mobilehome park or special occupancy park in which the mobilehome, manufactured home, or recreational vehicle is located, in writing, of all methamphetamine laboratory activities that have taken place in the mobilehome, manufactured home, or recreational vehicle and any remediation of the home or vehicle, the prospective buyer, tenant, or lessee is provided with a copy of the order.

(2) If a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is subject to a sale, the prospective buyer shall acknowledge in writing receipt of the notice and a copy of the order specified in this subdivision before taking possession of the mobilehome, manufactured home, or recreational vehicle.

(3) If the mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is subject to a rental agreement or lease, the notice and order specified in this subdivision shall be attached to the rental agreement.

(4) If the owner of a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) does not comply with the requirements of this subdivision, a prospective tenant may void the rental agreement and a prospective buyer may void the purchase agreement, as applicable.

(5) If the remediation of a mobilehome, manufactured home, or recreational vehicle specified in paragraph (1) is not completed by the registered owner of the mobilehome, manufactured home, or recreational vehicle in compliance with an order issued by a local health officer pursuant to this chapter, in addition to authority granted by Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of the Civil Code) and the Recreational Vehicle Park Occupancy

Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code), the owner of the mobilehome park or special occupancy park may remove, dismantle, demolish, or otherwise abate the nuisance.

(6) An activity specified in paragraph (5) to remove and dispose of the mobilehome, manufactured home, or recreational vehicle shall only be taken by an authorized contractor. In addition to any other requirements of this chapter, the registered owner of the recreational vehicle or registered owner of the mobilehome or manufactured home, as applicable, is severally and collectively liable for the cost of any remediation ordered by the local health officer.

SEC. 10. Section 25400.30 of the Health and Safety Code is amended to read:

25400.30. (a) (1) If a property owner does not initiate or complete the remediation of property in compliance with an order issued by a local health officer pursuant to this chapter, the city or county in which the property is located may, at its discretion, take action to remediate the contaminated or residually contaminated portion of the property pursuant to this chapter or may seek a court order to require the property owner to remediate the property in compliance with this chapter.

(2) Before a city or county takes an action pursuant to subdivision (a) regarding property specified in paragraph (2) of subdivision (t) of Section 25400.11, the city or county shall give a written notice of not less than 10 days in advance to the mobilehome park or special occupancy park owner to allow for remediation by the mobilehome park or special occupancy park owner in the manner prescribed by this chapter in addition to any other notice required by this section. If the mobilehome park or special occupancy park owner agrees, in writing, to undertake that remediation in compliance with the order, the city or county shall not take action pursuant to this section unless the owner is not in compliance with the agreement.

(b) If a local health officer is unable to locate a property owner within 10 days after the date the local health officer issues an order pursuant to Section 25400.22, the city or county in which the property is located may remediate the property in accordance with this article. The city or county or its contractors may remove contaminated property as part of this remediation activity.

(c) If a city or county elects to remediate contaminated property pursuant to this article, the property owner is liable for, and shall pay the city or county for, all actual costs related to the remediation, including, but not limited to, all of the following:

(1) Posting and physical security of the contaminated site.

(2) Notification of affected people, businesses or any other entity.

(3) Actual expenses related to the recovery of cost, laboratory fees, cleanup services, removal costs, and administrative and filing fees.

(d) If a real property owner does not pay the city or county for the costs of remediation specified in subdivision (c), the city or county may record a nuisance abatement lien pursuant to Section 38773.1 of the Government Code against the real property for the actual costs related to the remediation or bring an action against the real property owner for the remediation costs. The nuisance abatement lien shall have the effect, priority, and enforceability of a judgment lien from the date of its recordation.

SEC. 11. Section 25400.36 of the Health and Safety Code is amended to read:

25400.36. The PSA work plan shall include, but is not limited to, all of the following:

(a) The physical location of the property.

(b) A summary of the information obtained from law enforcement, the local health officer, and other involved local agencies. The summary shall include a discussion of the information's relevance to the contamination, including areas suspected of being contaminated, and may include all of the following information:

(1) Duration of laboratory operation and number of batches cooked or processed.

(2) Hazardous chemicals known to have been manufactured.

(3) Recipes and methods used.

(4) Chemicals and equipment found, by location, used in connection with the manufacture or storage of the hazardous chemicals.

(5) Location of contaminated cooking and storage areas.

(6) Visual assessment of the severity of contamination inside and outside of the structure where the laboratory was located.

(7) Assessment of contamination of adjacent rooms, units, apartments, or structures.

(8) Disposal methods observed at or near the site, including dumping, burning, burial, venting, or drain disposal.

(9) A comparison of the chemicals on the manifest with known methods of manufacture in order to identify other potential contaminants.

(10) A determination as to whether the methamphetamine manufacturing method included the use of chemicals containing mercury or lead, including lead acetate, mercuric chloride, or mercuric nitrate.

(c) A description of the areas to be sampled and the basis for the selection of the areas. This element of the PSA work plan shall also document the decision process used in determining not to sample particular areas. The PSA work plan shall consider both primary and secondary areas of concern.

(1) The primary areas of concern included in the work plan shall include all the following areas:

(A) Any area that has obvious staining caused by the use or manufacture of hazardous chemicals.

(B) Any processing or cooking area, with contamination caused by spills, boilovers, or explosions, or by chemical fumes and gases created during cooking. The area may include floors, walls, ceilings, glassware, and containers, working surfaces, furniture, carpeting, draperies and other textile products, plumbing fixtures and drains, and heating and air-conditioning vents.

(C) Any disposal area, including such indoor areas as sinks, toilets, bathtubs, plumbing traps and floor drains, vents, vent fans, and chimney flues and such outdoor areas that may be contaminated by dumping or burning on or near soil, surface water, groundwater, sewer or storm systems, septic systems, and cesspools.

(D) Chemical storage areas that may be contaminated by spills, leaks, or open containers.

(2) The secondary areas of concern shall include all of the following:

(A) Any location where contamination may have migrated, including hallways or other high traffic areas.

(B) Common areas in multiple dwellings, apartments, and adjacent apartments or rooms, or mobilehome parks and special occupancy parks, including adjacent permanent buildings, manufactured homes, mobilehomes, or recreational vehicles, and the floors, walls, ceilings, furniture, carpeting, light fixtures, blinds, draperies and other textile products in all of those areas.

(C) Common ventilation or plumbing systems in hotels, mobilehome parks, special occupancy parks, and multiple dwellings.

(d) Sampling protocols, analytical methods and laboratories to use and their relevant certifications or accreditations.

(e) A description of areas and items that will be remediated in lieu of sampling, if any.

SEC. 12. Section 25400.37 of the Health and Safety Code is amended to read:

25400.37. After a preliminary site assessment is completed in accordance with the PSA work plan, a PSA report shall be prepared and submitted to the local health officer. The PSA report shall be thorough and specific in reporting findings and recommendations and shall include all of the following:

(a) The location of the site, including all of the following, as applicable:

(1) Street address and mailing address of the contaminated property, the owner of record and mailing address, legal description, and clear directions for locating the property.

(2) (A) If the property is a manufactured home or mobilehome, the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5.

(B) If the property is a recreational vehicle, the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code.

(b) A site map, including a diagram of the contaminated property. The diagram shall include floor plans of affected buildings and local drinking water wells and nearby streams or other surface waters, if potentially impacted, and shall show the location of damage and contamination and the location of sampling points used in the preliminary site assessment. All sampling point locations shall be keyed to the sampling results and remediation recommendations.

(c) A description of the sampling methods and analytical protocols used in the preliminary site assessment.

(d) A description of the sampling results.

(e) Information regarding the background samples and results obtained.

(f) Specific recommendations, including methods, for remedial actions required to meet the human occupancy standards specified in Section 25400.16, including, but not limited to, any required decontamination, demolition, or disposal.

(g) A plan for postremediation site assessment, including specific sampling requirements and methodologies, and locations at which samples are to be obtained.

SEC. 13. Section 25400.45 of the Health and Safety Code is amended to read:

25400.45. (a) A property owner who does not provide a notice or disclosure required by this chapter is subject to a civil penalty in an amount of up to five thousand dollars ($5,000). A property owner shall also be assessed the full cost of all harm to public health or to the environment resulting from the property owner's failure to comply with this chapter.

(b) A person who violates an order issued by a local health officer pursuant to this chapter prohibiting the use or occupancy of a property or a portion thereof contaminated by a methamphetamine laboratory activity is subject to a civil penalty in an amount of up to five thousand dollars ($5,000).

SEC. 14. Section 25400.46 of the Health and Safety Code is amended to read:

25400.46. (a) A property owner who receives an order issued by a local health officer pursuant to Section 25400.22, or a property owner who owns property that is the subject of a notice posted pursuant to subdivision (i) of Section 25400.22, is liable for, and shall pay all of the following costs if it is determined that the property is contaminated:

(1) The cost of any testing.

(2) Any cost related to maintaining records with regard to the property.

(3) The cost of remediating the property, including any decontamination or disposal expenses.

(4) Any actual cost incurred by the local health officer or any other local or state agency resulting from the enforcement of this chapter and oversight of the implementation of the PSA work plan and the PSA report, with regard to that property.

(b) A person who conducts methamphetamine laboratory activity on or at property subject to subdivision (a), and who is not the owner of that property, is liable for, and shall reimburse the owner of the property for, any cost that property owner may incur pursuant to subdivision (a).

(c) The owner of a mobilehome, manufactured home, or recreational vehicle, in or about which a methamphetamine laboratory activity occurred, is liable for, and shall reimburse the owner of the real property on which the mobilehome, manufactured home, or recreational vehicle is located for, any cost the owner of the real property incurs pursuant to subdivision (a).

SEC. 15. Section 25400.47 is added to the Health and Safety Code, to read:

25400.47. (a) If the registered owner of a mobilehome, manufactured home, or recreational vehicle, in or about which methamphetamine laboratory activity occurred, does not take the action required by subdivision (b) of Section 25400.25, within 30 days, as required by the order issued by a local health officer, or does not pay the city or county for the costs of remediation specified in subdivision (c) of Section 25400.30, the mobilehome park or special occupancy park owner may immediately initiate the actions authorized by paragraph (5) of subdivision (c) of Section 25400.28, including, but not limited to, terminating the tenancy of the owner of the mobilehome, manufactured home, or recreational vehicle, if any, by a written noncurable three-day notice to quit, and not later than 30 days after restitution of possession of the real property, or vacation or abandonment of the tenancy, the mobilehome park or special occupancy park owner or operator may abate any nuisance and take any of the following actions:

(1) Remediate the mobilehome, manufactured home, or recreational vehicle in accordance with the requirements of this chapter, in compliance with the PSA workplan.

(2) Immediately cause an authorized contractor, to remove and dispose of the mobilehome, manufactured home, or recreational vehicle.

(3) Remove and dispose of the mobilehome, manufactured home, or recreational vehicle.

(4) In a special occupancy park, notwithstanding Section 3072 of the Civil Code or Sections 22851.3 or 22851.8 of the Vehicle Code, or in a mobilehome park, enforce a warehouseman's lien in accordance with Sections 7209 and 7210 of the Commercial Code against the recreational vehicle.

(b) If the owner of a mobilehome, manufactured home, or recreational vehicle, in or about which methamphetamine laboratory activity occurred, does not pay the city or county for the costs of remediation specified in subdivision (c) of Section 25400.30, or does not reimburse the mobilehome park or special occupancy park owner where the mobilehome, manufactured home, or recreational vehicle is located, for any cost that the mobilehome park owner incurs pursuant to this chapter to remediate the property, a mobilehome park owner may, in addition to any other remedy allowed by law, treat the amount due as rent and serve a notice and initiate an action for nonpayment of rent as allowed by Section 798.56 of the Civil Code and a special occupancy park owner may treat the amount due as rent and serve a notice and initiate any action permitted for nonpayment of rent pursuant to the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of the Civil Code).

(c) (1) A warehouseman's lien may be enforced pursuant to paragraph (4) of subdivision (a) only if the notification specified in paragraph (c) of subdivision (2) of Section 7210 of the Commercial Code, in addition to including the itemized statement of the claim of the mobilehome park or special occupancy park owner, also includes an itemized statement of the city or county, if the city or county submits to the mobilehome park or special occupancy park owner a claim for the costs of remediation specified in subdivision (c) of Section 25400.30 at least 10 days before service of the notification.

(2) A mobilehome park or special occupancy park owner may satisfy a warehouseman's lien first from the proceeds of the sale of the mobilehome, manufactured home, or recreational vehicle.

(3) A warehouseman's lien enforced pursuant to this section that does not include a claim submitted by the city or county pursuant to paragraph (1) shall be deemed to meet the notification requirements of paragraph (1), but any balance of the proceeds of any sale shall be held pursuant

to subdivision (6) of Section 7210 of the Commercial Code, for delivery on demand to the city or county, and thereafter to any person to whom the mobilehome park or special occupancy park owner would have been bound to deliver the mobilehome, manufactured home, or recreational vehicle.

SEC. 16. 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 790

An act to add Section 1936.01 to the Civil Code, to amend Sections 13995.40, 13995.49, 13995.65, and 13995.77 of, to amend, repeal, and add Sections 13995.20 and 13995.60 of, and to add Sections 13995.40.5, 13995.64.5, 13995.65.5, and 13995.92 to, the Government Code, and to add Item 0520-495 to Section 2 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006, as amended by Chapter 48 of the Statutes of 2006), relating to California tourism.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 1936.01 is added to the Civil Code, to read:

1936.01. (a) For the purpose of this section, the following definitions shall apply:

(1) "Airport concession fee" means a charge collected by a rental company from a renter that is the renter's proportionate share of the amount paid by the rental company to the owner or operator of an airport for the right or privilege of conducting a vehicle rental business on the airport's premises.

(2) "Quote" means an estimated cost of rental provided by a rental company or a third party to a potential customer by telephone, in-person, computer-transmission, or other means, that is based on information provided by the potential customer and used to generate an estimated cost of rental, including, but not limited to, any of the following: potential dates of rental, locations, or classes of car.

(3) "Tourism commission assessment" means the charge collected by a rental company from a renter that has been established by the

California Travel and Tourism Commission pursuant to Section 13995.65 of the Government Code.

(b) Notwithstanding subdivision (n) of Section 1936, the following provisions shall apply:

(1) A rental company shall only advertise a rental rate that includes the entire amount, except taxes, a customer facility charge, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies.

(2) When providing a quote, or imposing charges for a rental, the rental company may separately state the rental rate, taxes, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company may not charge in addition to the rental rate, taxes, a customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any, any fee that must be paid by the renter as a condition of hiring or leasing the vehicle, such as, but not limited to, required fuel or airport surcharges other than customer facility charges and airport concession fees.

(3) If customer facility charges, airport concession fees, or tourism commission assessments are imposed, the rental company shall do each of the following:

(A) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate, taxes, customer facility charge, if any, airport concession fee, if any, and tourism commission assessment, if any, as well as the total charges for the entire rental. The total charges, if provided on an Internet Web site, shall be displayed in a typeface at least as large as any rental rate disclosed on that page and shall be provided on a page that the person receiving the quote may reach by following links through no more than two Internet Web site pages, including the page on which the rental rate is first provided. The good faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing the reservation based upon the information provided by the person.

(B) At the time and place the rental commences, clearly and conspicuously disclose in the rental contract, or that portion of the contract that is provided to the renter, the total of the rental rate, taxes, customer facility charge, if any, airport concession fee, if any, and tourism commission assessment, if any, for the entire rental, exclusive of charges that cannot be determined at the time the rental commences. Charges imposed pursuant to this subparagraph shall be no more than the amount of the quote provided in a confirmed reservation, unless the

person changes the terms of the rental contract subsequent to making the reservation.

(C) Provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about customer facility charges, airport concession fees, and tourism commission assessments as well as access to information about when those charges apply. Any person providing quotes to actual or prospective customers for the hire or lease of a vehicle from a rental company shall provide the quotes in the manner described in subparagraph (A).

(4) In addition to the rental rate, taxes, customer facility charges, if any, airport concession fees, if any, tourism commission assessments, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge, include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(5) A rental company may not charge any fee for authorized drivers in addition to the rental charge for an individual renter.

(6) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quote, the rental company shall clearly disclose in that advertisement or quote the terms of any mileage conditions relating to the rental rate disclosed in the advertisement or quote, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(7) (A) When a rental rate is stated in an advertisement, in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall clearly disclose the existence and amount of the customer facility charge. For the purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. If the rental rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of charges may be stated in the advertisement. However, all

rental rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If any person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises a rental rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided they are provided with information about the existence and amount of the charge, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the charge. If a rental car company provides the person or entity with rental rate and customer facility charge information, the rental car company is not responsible for the failure of that person or entity to comply with this subparagraph.

(8) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company may not charge the renter any amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company may not charge the renter any amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(9) Except as otherwise permitted pursuant to the customer facility charge, a rental company may not separately charge, in addition to the rental rate, a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(c) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(d) Any waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(e) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 of the Government Code have been satisfied.

SEC. 2. Section 13995.20 of the Government Code is amended to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Appointed commissioner" means a commissioner appointed by the Governor pursuant to paragraph (2) of subdivision (b) of Section 13995.40.

(b) "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.

(c) "Commission" means the California Travel and Tourism Commission.

(d) "Elected commissioner" means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

(e) "Industry category" means the following classifications within the tourism industry:

(1) Accommodations.

(2) Restaurants and retail.

(3) Attractions and recreation.

(4) Transportation and travel services.

(f) "Industry segment" means a portion of an industry category. For example, rental cars are an industry segment of the transportation and travel services industry category.

(g) "Office" means the Office of Tourism, also popularly referred to as the Division of Tourism, within the Business, Transportation and Housing Agency.

(h) "Person" means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for-profit or nonprofit basis.

(i) "Referendum" means any vote by mailed ballot of measures recommended by the commission and approved by the secretary pursuant to Section 13995.60, except for the initial referendum, which shall consist of measures contained in the selection committee report, discussed in Section 13995.30.

(j) "Secretary" means the Secretary of Business, Transportation and Housing.

(k) "Selection committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 13995.30).

(*l*) This section shall become inoperative on the date the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied, and if the secretary provides those notices, this section is repealed as of January

1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 3. Section 13995.20 is added to the Government Code, to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Appointed commissioner" means a commissioner appointed by the Governor pursuant to paragraph (2) of subdivision (b) of Section 13995.40.

(b) "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.

(c) "Commission" means the California Travel and Tourism Commission.

(d) "Elected commissioner" means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

(e) "Industry category" means the following classifications within the tourism industry:

(1) Accommodations.

(2) Restaurants and retail.

(3) Attractions and recreation.

(4) Transportation and travel services, other than passenger car rental.

(5) Passenger car rental.

(f) "Industry segment" means a portion of an industry category. For example, motor home rentals are an industry segment of the transportation and travel services industry category.

(g) "Maximum assessment" means a dollar amount, adopted by the commission, over which an assessed business shall not be required to pay. The commission may adopt differing amounts of maximum assessment for each industry category or industry segment.

(h) "Office" means the Office of Tourism, also popularly referred to as the Division of Tourism, within the Business, Transportation and Housing Agency.

(i) "Person" means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for-profit or nonprofit basis.

(j) "Referendum" means any vote by mailed ballot of measures recommended by the commission and approved by the secretary pursuant to Section 13995.60, except for the initial referendum, which shall consist

of measures contained in the selection committee report, discussed in Section 13995.30.

(k) "Secretary" means the Secretary of Business, Transportation and Housing.

(*l*) "Selection committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 13995.30).

(m) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 4. Section 13995.40 of the Government Code is amended to read:

13995.40. (a) Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.

(b) The board of commissioners shall consist of 37 commissioners comprising the following:

(1) The secretary, who shall serve as chairperson.

(2) (A) Twelve members, who are professionally active in the tourism industry, and whose primary business, trade, or profession is directly related to the tourism industry, shall be appointed by the Governor. Each appointed commissioner shall represent only one of the 12 tourism regions designated by the office, and the appointed commissioners shall be selected so as to represent, to the greatest extent possible, the diverse elements of the tourism industry. Appointed commissioners are not limited to individuals who are employed by or represent assessed businesses.

(B) If an appointed commissioner ceases to be professionally active in the tourism industry or his or her primary business, trade, or profession ceases to be directly related to the tourism industry, he or she shall automatically cease to be an appointed commissioner 90 days following the date on which he or she ceases to meet both of the eligibility criteria specified in subparagraph (A), unless the commissioner becomes eligible again within that 90-day period.

(3) Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.

(c) The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.

(d) Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(e) The secretary may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.

(f) (1) The term of each elected commissioner shall commence July 1 of the year next following his or her election, and shall expire on June 30 of the fourth year following his or her election. If an elected commissioner ceases to be employed by or with an assessed business in the category and segment which he or she was representing, his or her term as an elected commissioner shall automatically terminate 90 days following the date on which he or she ceases to be so employed, unless, within that 90-day period, the commissioner again is employed by or with an assessed business in the same category and segment.

(2) Terms of elected commissioners that would otherwise expire effective December 31 of the year during which legislation adding this subdivision is enacted shall automatically be extended until June 30 of the following year.

(g) With the exception of the secretary, no commissioner shall serve for more than two consecutive terms. For purposes of this subdivision, the phrase "two consecutive terms" shall not include partial terms.

(h) Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by referendum.

(i) The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates complying with the procedure described in Section 13995.62.

(j) The commissioners shall elect a vice chairperson from the elected commissioners.

(k) The commission may lease space from the office.

(*l*) The commission and the office shall be the official state representatives of California tourism.

(m) All commission meetings shall be held in California.

(n) No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.

(o) Assessed businesses shall vote only for commissioners representing their industry category.

(p) Commissioners shall comply with the requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)). The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.

(q) Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).

(r) The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.

SEC. 5. Section 13995.40.5 is added to the Government Code, to read:

13995.40.5. (a) Notwithstanding subdivision (d) of Section 13995.40, the number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category, except that no more than six commissioners shall be elected from the passenger car rental category.

(b) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 6. Section 13995.49 of the Government Code is amended to read:

13995.49. The commission may by written contract accept a voluntary assessment from any person in a travel and tourism related business who is not an assessed business. The contract shall apply solely to the person in question and not to any other person in a travel and tourism related business that is not an assessed business. The contract shall provide that the voluntary assessment be proportionately equivalent to the assessment that would be levied if the person were an assessed business under this chapter, shall permit that business to vote on any referendum conducted under this chapter as if that person were an assessed business, and shall

have a term concurrent with the effective period of any referendum on which the person votes. Individual voluntary assessments under this section shall be enforceable only under the terms of the respective contracts to which they pertain. This section shall not be construed to preclude donations to, or cooperative marketing activities of any kind with, the commission on the part of any person.

SEC. 7. Section 13995.60 of the Government Code is amended to read:

13995.60. (a) As used in this article and Article 7 (commencing with Section 13995.65), "assessment level" means the estimated gross dollar amount received by assessment from all assessed businesses on an annual basis, and "assessment formula" means the allocation method used within each industry segment (for example, percentage of gross revenue).

(b) Commencing on January 1, 2003, a referendum shall be called every two years, and the commission, by adopted resolution, shall determine the slate of individuals who will run for commissioner. The resolution shall also cover, but not be limited to, the proposed assessment level, based upon specified assessment formulae, together with necessary information to enable each assessed business to determine what its individual assessment would be. Commencing with the referendum held in 2007 and every six years thereafter, the resolution shall also cover the termination or continuation of the commission. The resolution may also include an amended industry segment allocation formula and the percentage allocation of assessments between industry categories and segments. The commission may specify in the resolution that a special, lower assessment rate that was set pursuant to subdivision (c) of Section 13995.30 for a particular business will no longer apply due to changes in the unique circumstance that originally justified the lower rate. The resolution may include up to three possible assessment levels, from which the assessed businesses will select one assessment level by plurality weighted vote.

(c) The commission shall deliver to the secretary the resolution described in subdivision (b). The secretary shall call a referendum containing the information required by subdivision (b) plus any additional matters complying with the procedures of subdivision (b) of Section 13995.62.

(d) When the secretary calls a referendum, all assessed businesses shall be sent a ballot for the referendum. Every ballot that the secretary receives by the ballot deadline shall be counted, utilizing the weighted formula adopted initially by the selection committee, and subsequently amended by referendum.

(e) If the referendum includes more than one possible assessment rate, the rate with the plurality of weighted votes shall be adopted.

(f) Notwithstanding any other provision of this section, if the commission delivers to the secretary a resolution pertaining to any matter described in subdivision (b), the secretary shall call a referendum at a time or times other than as specified in this section. Each referendum shall contain only those matters contained in the resolution.

(g) Notwithstanding any other provision of this section, the secretary shall identify, to the extent reasonably feasible, those businesses that would become newly assessed due to a change in category, segment, threshold, or exemption status sought via referendum, and provide those businesses the opportunity to vote in that referendum.

(h) This section shall become inoperative on the date the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied, and if the secretary provides those notices, this section is repealed as of January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 8. Section 13995.60 is added to the Government Code, to read:

13995.60. (a) As used in this article and Article 7 (commencing with Section 13995.65), "assessment level" means the estimated gross dollar amount received by assessment from all assessed businesses on an annual basis, and "assessment formula" means the allocation method used within each industry segment (for example, percentage of gross revenue or percentage of transaction charges).

(b) Commencing on January 1, 2003, a referendum shall be called every two years, and the commission, by adopted resolution, shall determine the slate of individuals who will run for commissioner. The resolution shall also cover, but not be limited to, the proposed assessment level for each industry category, based upon specified assessment formulae, together with necessary information to enable each assessed business to determine what its individual assessment would be. Commencing with the referendum held in 2007 and every six years thereafter, the resolution shall also cover the termination or continuation of the commission. The resolution may also include an amended industry segment allocation formula and the percentage allocation of assessments between industry categories and segments. The commission may specify in the resolution that a special, lower assessment rate that was set pursuant to subdivision (c) of Section 13995.30 for a particular business will no longer apply due to changes in the unique circumstance that originally justified the lower rate. The resolution may include up to three possible assessment levels for each industry category, from which the assessed businesses will select one assessment level for each industry category by plurality weighted vote.

(c) The commission shall deliver to the secretary the resolution described in subdivision (b). The secretary shall call a referendum containing the information required by subdivision (b) plus any additional matters complying with the procedures of subdivision (b) of Section 13995.62.

(d) When the secretary calls a referendum, all assessed businesses shall be sent a ballot for the referendum. Every ballot that the secretary receives by the ballot deadline shall be counted, utilizing the weighted formula adopted initially by the selection committee, and subsequently amended by referendum.

(e) If the commission's assessment level is significantly different from what was projected when the existing assessment formula was last approved by referendum, a majority of members, by weighted votes of an industry category, may petition for a referendum to change the assessment formula applicable to that industry category.

(f) If the referendum includes more than one possible assessment rate for each industry category, the rate with the plurality of weighted votes within a category shall be adopted.

(g) Notwithstanding any other provision of this section, if the commission delivers to the secretary a resolution pertaining to any matter described in subdivision (b), the secretary shall call a referendum at a time or times other than as specified in this section. Each referendum shall contain only those matters contained in the resolution.

(h) Notwithstanding any other provision of this section, the secretary shall identify, to the extent reasonably feasible, those businesses that would become newly assessed due to a change in category, segment, threshold, or exemption status sought via referendum, and provide those businesses the opportunity to vote in that referendum.

(i) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 9. Section 13995.64.5 is added to the Government Code, to read:

13995.64.5. (a) Notwithstanding subdivision (a) of Section 13995.64, if an assessed business within the passenger car rental category pays an assessment greater than the maximum assessment, determined by the commission for other industry categories, the weighted percentage assigned to that assessed business shall be the same as though its assessment were equal to the highest maximum assessment.

(b) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature

and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 10. Section 13995.65 of the Government Code is amended to read:

13995.65. (a) Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formula for each industry segment, and any types of business exempt from assessment. The initial segment committees shall consist of the subcommittee for that category as described in subdivision (d) of Section 13995.30. Following approval of the assessment by referendum, the committees shall be selected by the commission, based upon recommendations from the tourism industry. Committee members need not be commission members.

(b) The committee recommendations shall be presented to the commission or selection committee, as applicable. The selection committee may adopt a resolution specifying some or all of the items listed in subdivision (a), plus an allocation of the overall assessment among industry categories. The commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the proposed assessment. The selection committee and commission are not required to adopt the findings of any committee.

(c) The initial industry category and industry segment allocations shall be included in the selection committee report required by subdivision (b) of Section 13995.30. Changes to the industry segment allocation formula may be recommended to the commission by a segment committee at the biennial commission meeting scheduled to approve the referendum resolution pursuant to Section 13995.60. At the same meeting, the commission may amend the percentage allocations among industry categories. Any item discussed in this section that is approved by resolution of the commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the majority of weighted votes cast.

(d) Upon approval by referendum, the office shall mail an assessment bill to each assessed business. The secretary shall determine how often assessments are collected, based upon available staffing resources. The secretary may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment because of the staggered assessment period. The secretary and office shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.

(e) An assessed business may appeal an assessment to the secretary based upon the fact that the business does not meet the definition

established for an assessed business within its industry segment or that the level of assessment is incorrect. An appeal brought under this subdivision shall be supported by substantial evidence submitted under penalty of perjury by affidavit or declaration as provided in Section 2015.5 of the Code of Civil Procedure. If the error is based upon failure of the business to provide the required information in a timely manner, the secretary may impose a fee for reasonable costs incurred by the secretary in correcting the assessment against the business as a condition of correcting the assessment.

(f) Notwithstanding any other provision of law, an assessed business may pass on some or all of the assessment to customers. An assessed business that is passing on the assessment may, but shall not be required to, separately identify or itemize the assessment on any document provided to a customer. Assessments levied pursuant to this chapter and passed on to customers are not part of gross receipts or gross revenue for any purpose, including the calculation of sales or use tax and income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

(g) For purposes of calculating the assessment for a business with revenue in more than one industry category or industry segment, that business may elect to be assessed based on either of the following:

(1) The assessment methodology and rate of assessment applicable to each category or segment, respectively, as it relates to the revenue that it derives from that category or segment.

(2) With respect to its total revenue from all industry categories or segments, the assessment methodology and rate of assessment applicable to the revenue in the category and segment in which it earns the most gross revenue.

(h) (1) A person sharing common ownership, management, or control of more than one assessed business may elect to calculate, administer, and pay the assessment owed by each business by any of the following methods:

(A) Calculated on the basis of each individual business location.

(B) Calculated on the basis of each business, or each group of businesses, possessing a single federal employer identification number, regardless of the number of locations involved.

(C) Calculated on the basis of the average aggregate percentage of tourism-related gross revenue received by all of the person's businesses in a particular industry segment or industry category during the period in question, multiplied by the total aggregate tourism-related gross revenue received by all of the businesses, and then multiplied by the appropriate assessment formula. For example, if a person sharing

common ownership, management, or control of more than one assessed business in the retail industry segment calculates that the average percentage of tourism-related gross revenue received by all of its locations equals 6 percent during the period in question, that person may multiply all of the gross revenue received from all of those locations by 6 percent, and then multiply that product by the applicable assessment formula.

(D) Calculated on any other basis authorized by the secretary.

(2) Except as the secretary may otherwise authorize, the methods in subparagraphs (B), (C), or (D) shall not be used if the aggregate assessments paid would be less than the total assessment revenues that would be paid if the method in subparagraph (A) were used.

SEC. 11. Section 13995.65.5 is added to the Government Code, to read:

13995.65.5. (a) Notwithstanding Section 13995.65 or any other provision of this chapter, for purposes of calculating the assessment for a business within the passenger car rental category, the assessment shall be collected only on each rental transaction that commences at either an airport or at a hotel or other overnight lodging with respect to which a city, city and county, or county is authorized to levy a tax as described in Section 7280 of the Revenue and Taxation Code. A transaction commencing at an airport or hotel or other overnight lodging subject to a transient occupancy tax as described in Section 7280 of the Revenue and Taxation Code, including those that commence at a location that might otherwise by regulation be exempt from assessment, shall be subject to the assessment. The assessment shall always be expressed as a fixed percentage of the amount of the rental transaction.

(b) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 12. Section 13995.77 of the Government Code is amended to read:

13995.77. A business is exempt from the assessments provided for in this chapter if any of the following apply:

(a) The business is a travel agency or tour operator that derives less than 20 percent of its gross revenue annually from travel and tourism occurring within the state. A travel agency or tour operator that qualifies for this exemption may participate as an assessed business by paying an assessment calculated on the same basis applicable to other travel agencies or tour operators, respectively, and by filing a written request with the secretary indicating its desire to be categorized as an assessed business.

(b) The business is a small business. For purposes of this section, "small business" means a business location with less than one million dollars ($1,000,000) in total California gross annual revenue from all sources. This threshold amount may be lowered, but never to less than five hundred thousand dollars ($500,000), by means of a referendum conducted pursuant to Section 13995.60; however, the secretary may elect to forgo assessing a business for which the expense incurred in collecting the assessment is not commensurate with the assessment that would be collected.

(c) The assessments provided for in this chapter shall not apply to the revenue of regular route intrastate and interstate bus service: provided, however, that this subdivision shall not be deemed to exclude any revenue derived from bus service that is of a type that requires authority, whether in the form of a certificate of public convenience and necessity, or a permit, to operate as a charter-party carrier of passengers pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code.

(d) Any business exempted pursuant to this section may enter into a contract for voluntary assessments pursuant to Section 13995.49.

SEC. 13. Section 13995.92 is added to the Government Code, to read:

13995.92. (a) The California Travel and Tourism Commission shall submit a referendum to the passenger rental car industry as soon as possible, but not later than March 31, 2007. The referendum shall propose an assessment level upon the passenger rental car industry, as an industry category, under this chapter. The proposed assessment rate shall be set at a level determined by the commission that will generate funding that will be sufficient, when aggregated together with other funding for the commission, minus amounts reverted to the general fund pursuant to Item 0520-495 of Section 2 of the Budget Act of 2006, for a spending plan for the 2006–07 fiscal year of twenty-five million dollars ($25,000,000), and for the 2007–08 fiscal year of fifty million dollars ($50,000,000).

(b) The commission shall report to the Secretary of Business, Transportation and Housing if the referendum and assessment rates described in subdivision (a) are agreed to. The secretary shall immediately provide notice of that agreement to the Legislature and the Secretary of State and shall also post notice of that agreement on its Internet Web site.

SEC. 14. Item 0520-495 is added to Section 2 of the Budget Act of 2006 to read:

0520-495—Reversion, Secretary of Business, Transportation and Housing. The sum of $6,300,000, appropriated in Item 0520-001-0001, Budget Act of 2006 (Ch. 47, Stats. 2006; Ch. 48, Stats. 2006), and made available to the California Travel and Tourism Commission pursuant to Provision 1 thereof, shall revert to the General Fund.

SEC. 15. Section 14 of this act shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 of the Government Code have been satisfied.

SEC. 16. Notwithstanding any reversion of moneys to the General Fund pursuant to Section 14 of this act, or any amounts appropriated to the commission in any future budget act below the levels specified in Section 13995.70 of the Government Code, the authorization provided to the travel and tourism industry under that code section to terminate the commission by referendum shall be deemed suspended until the end of the 2007–08 fiscal year if the California Travel and Tourism Commission finds that the referendum held pursuant to Section 13995.92 of the Government Code allows the commission to meet the funding goals specified therein.

CHAPTER 791

An act to amend Sections 100, 755, and 756 of, to amend and repeal Section 100.1 of, and to add Section 100.11 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 100 of the Revenue and Taxation Code is amended to read:

100. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues

attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency.

(4) In a county of the second class, for the 1992–93 fiscal year and each fiscal year thereafter, "taxing jurisdiction" includes that fund that has been designated by the auditor as the "Unallocated Residual Public Utility Tax Fund." All revenues allocated to that fund pursuant to this section shall be deposited in that fund and shall be distributed as follows:

(A) For the 1992–93 fiscal year to the 1996–97 fiscal year, inclusive, at the discretion of the county board of supervisors.

(B) For the 1997–98 fiscal year, 100 percent to the Orange County Fire Authority.

(C) For the 1998–99 fiscal year and each fiscal year thereafter, in accordance with the following schedule:

(i) Fifty-seven and forty-seven hundredths percent to the Orange County Fire Authority.

(ii) Forty-one and forty-seven hundredths percent to the Orange County Library District.

(iii) Forty-eight hundredths percent to the Buena Park Library District.

(iv) Fifty-eight hundredths percent to the Placentia Library District.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section applies to the unitary property of regulated railway companies only to the extent described in Section 100.1.

(i) This section does not apply to property that on July 1, 1987, was undeveloped and owned by a utility and located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues

derived with respect to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county auditor prior to January 1, 2006, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2).

(2) If the city, county, or city and county has adopted and transmitted a resolution pursuant to paragraph (1), the county auditor shall annually allocate the property tax revenue attributable to the new construction described in the development plan or agreement, as if that new construction were subject to assessment by the county assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(*l*) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 1.5. Section 100 of the Revenue and Taxation Code is amended to read:

100. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax

rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and

operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency.

(4) In a county of the second class, for the 1992–93 fiscal year and each fiscal year thereafter, "taxing jurisdiction" includes that fund that has been designated by the auditor as the "Unallocated Residual Public Utility Tax Fund." All revenues allocated to that fund pursuant to this section shall be deposited in that fund and shall be distributed as follows:

(A) For the 1992–93 fiscal year to the 1996–97 fiscal year, inclusive, at the discretion of the county board of supervisors.

(B) For the 1997–98 fiscal year, 100 percent to the Orange County Fire Authority.

(C) For the 1998–99 fiscal year and each fiscal year thereafter, in accordance with the following schedule:

(i) Fifty-seven and forty-seven hundredths percent to the Orange County Fire Authority.

(ii) Forty-one and forty-seven hundredths percent to the Orange County Library District.

(iii) Forty-eight hundredths percent to the Buena Park Library District.

(iv) Fifty-eight hundredths percent to the Placentia Library District.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section applies to the unitary property of regulated railway companies only to the extent described in Section 100.1.

(i) This section does not apply to property that on July 1, 1987, was undeveloped and owned by a utility and located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county auditor prior to January 1, 2006, the

allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2).

(2) If the city, county, or city and county has adopted and transmitted a resolution pursuant to paragraph (1), the county auditor shall annually allocate the property tax revenue attributable to the new construction described in the development plan or agreement, as if that new construction were subject to assessment by the county assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(*l*) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 2. Section 100.1 of the Revenue and Taxation Code is amended to read:

100.1. Notwithstanding any other provision of law, for the 1988–89 to 2006–07 fiscal years, inclusive, property tax assessed value attributable to unitary property, as defined in Section 723, of a regulated railway company that is assessed by the State Board of Equalization, shall be allocated to tax rate areas as follows:

(a) Each tax rate area shall receive an amount of assessed value equal to the amount of assessed value received in the prior fiscal year adjusted for changes in track mileage unless the total amount of assessed value to be allocated is insufficient, in which case, each tax rate area shall

receive a pro rata share of the amount it received in the prior fiscal year adjusted for changes in track mileage.

(b) If the total amount of assessed value to be allocated is greater than the amount of assessed value allocated in the prior fiscal year adjusted for changes in track mileage, each tax rate area shall receive a pro rata share of the amount in excess of the prior year's assessed value of the regulated railway company adjusted for track mileage.

(c) If a tax rate area is divided, the prior fiscal year amount of assessed value of the unitary property of the regulated railway company shall be divided among the resulting tax rate areas in the same proportion that the track mileage on unitary property is divided among the resulting tax rate areas.

(d) The assessed value allocated to each tax rate area under subdivision (a), (b), or (c) shall be further allocated between land, improvements, and personal property in the same proportion as existed for each regulated railway company statewide in the 1987–88 assessment year.

(e) For purposes of this section:

(1) "The amount of assessed value received in the prior fiscal year adjusted for changes in track mileage" means the prior year's amount of assessed value in each tax rate area after it has been adjusted upward or downward in direct proportion to the change in the amount of track mileage on unitary property in the current year over the prior year.

(2) "Track mileage" means the number of miles of track adjusted to reflect the relative importance of mainline, branch, and other track.

(f) This section is repealed on July 1, 2007.

SEC. 3. Section 100.11 is added to the Revenue and Taxation Code, to read:

100.11. (a) Notwithstanding any other law, for the 2007–08 fiscal year and for each fiscal year thereafter, property tax assessed value attributable to unitary property, as defined in Section 723, of a regulated railway company that is assessed by the State Board of Equalization, shall be allocated to tax rate areas as follows:

(1) With respect to the value of a qualified facility, both of the following apply:

(A) An amount of value equal to 20 percent of the original cost of the qualified facility shall be allocated exclusively to those tax rate areas in the county in which the facility is located. The tax rates applied to this value shall be the rates described in Section 93.

(B) The revenues derived from the application of these rates to the value described in subparagraph (A) shall be allocated to jurisdictions in those tax rate areas in the county in which the qualified property is located in percentage shares that are equivalent to the percentage shares that these jurisdictions received in the prior fiscal year from the property

tax revenues paid by the regulated railway company in the county in which the qualified property is located. The county auditor shall ensure that school entities, as defined in subdivision (f) of Section 95, in these tax rate areas in a county are allocated an amount equivalent to the same percentage the school entities received in the prior fiscal year from the property tax revenues paid by the regulated railway company in the county.

(2) With respect to the value of unitary property of a regulated railway company that is not described in paragraph (1), all of the following apply:

(A) A countywide tax rate area shall be established in each county in which the property of a regulated railway company is located. Value shall be allocated to that countywide tax rate area according to the following:

(i) Each countywide tax rate area shall receive an amount of assessed value equal to the amount of assessed value received in the county for the prior fiscal year, adjusted for changes in track mileage, unless the total amount of assessed value to be allocated is insufficient, in which case, each countywide tax rate area shall receive a pro rata share of the amount it received in the prior fiscal year, adjusted for changes in track mileage.

(ii) If the total amount of assessed value to be allocated is greater than the amount of assessed value allocated for the prior fiscal year, adjusted for changes in track mileage, each countywide tax rate area shall receive a pro rata share of the amount in excess of the prior year's assessed value of the regulated railway company adjusted for track mileage.

(iii) The assessed value allocated to each countywide tax rate area under clauses (i) and (ii) shall be further allocated between land, improvements, and personal property in the same proportion that existed for each regulated railway company statewide for the 2006–07 assessment year.

(B) The tax rate applied to the value allocated to a countywide tax rate area under subparagraph (A) shall be the sum of the rates described in paragraphs (1) and (2) of subdivision (b) of Section 100.

(C) The revenues derived from the application of these rates to this value shall be allocated in the manner described in subdivisions (c) and (d) of Section 100, which manner shall be modified as follows:

(i) School entities, as defined in subdivision (f) of Section 95, in a county shall be allocated an amount equivalent to the same percentage the school entities received in the prior fiscal year from the property tax revenues paid by the regulated railway company in the county.

(ii) Notwithstanding any other law, for the 2007–08 fiscal year, a redevelopment agency shall not receive any property tax revenues described in this paragraph.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Qualified facility" means a building, auto or container loading and unloading facility, or transload facility that meets both of the following criteria:

(A) The original cost of the completed facility, including land, but not including, track and track materials, is equal to or exceeds one hundred million dollars ($100,000,000).

(B) The facility is completely constructed and placed in service after January 1, 2007.

(2) "The amount of assessed value received in the prior fiscal year adjusted for changes in track mileage" means the prior year's amount of assessed value in each county after it has been adjusted upward or downward in direct proportion to the change in the amount of track mileage on unitary property in the current year over the prior year.

(3) "Track mileage" means the number of total miles of track in a county.

SEC. 4. Section 755 of the Revenue and Taxation Code is amended to read:

755. (a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to those changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection by any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the value of property described in paragraph (1) of subdivision (a) of Section 100.1 and the nonunitary value of the property of regulated railway companies, property subject to subdivisions (i), (j), and (k) of Section 100, and property subject to Section 100.9 shall be allocated by revenue district.

(c) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 5. Section 756 of the Revenue and Taxation Code is amended to read:

756. (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished to the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the value of property described in paragraph (1) of subdivision (a) of Section 100.1 and the nonunitary value of the property of regulated railway companies, property subject to subdivisions (i), (j), and (k) of Section 100, and property subject to Section 100.9 shall be enrolled by revenue district.

(c) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

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. Section 1.5 of this bill incorporates amendments to Section 100 of the Revenue and Taxation Code proposed by both this bill and SB 1317. 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 100 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1317, in which case Section 1 of this bill shall not become operative.

CHAPTER 792

An act to add Section 14105.75 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 14105.75 is added to the Welfare and Institutions Code, to read:

14105.75. (a) In order to ensure that drug products in an injectable form that are not administered by the patient are available to Medi-Cal beneficiaries pursuant to federal law, the department shall do all of the following with respect to any such drug product:

(1) (A) Develop and publish a medical benefit drug utilization policy within 180 days of being notified by the manufacturer of approval of the product by the federal Food and Drug Administration. The policy shall be published in the Medi-Cal provider bulletin that immediately follows that 180-day period. The effective date of the drug utilization policy shall be no later than the publication date of the bulletin.

(B) If the department is unable to complete and publish the policy within the period specified in subparagraph (A), the department shall, until completion of the utilization policy, allow providers to use the utilization standards approved by the federal Food and Drug Administration that are contained in the official package circular or insert for the product when the department reviews a provider's submission for utilization of the product. The department shall allow the product to be billed and reimbursed using a miscellaneous billing code until the permanent code is assigned and published pursuant to paragraph (3).

(2) Evaluate the necessity of utilization controls, and publish all utilization controls in both the final drug utilization policy and the Medi-Cal provider bulletin.

(3) Ensure that the fiscal intermediary enters into the Medi-Cal database the code assigned to the product within 60 days of the date the code was assigned to the product.

(b) Nothing in this section shall be construed to affect the department's authority to require a provider to obtain prior authorization for dispensing or administering an injectable drug.

CHAPTER 793

An act to amend Section 12276.5 of, and to add Section 12282 to, the Penal Code, relating to firearms.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 12276.5 of the Penal Code is amended to read:

12276.5. (a) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 12276, and any firearm declared to be an assault weapon pursuant to this section, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(b) (1) Until January 1, 2007, the Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this section. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations. Any firearm declared to be an assault weapon prior to January 1, 2007, shall remain on the list filed with the Secretary of State.

(2) Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

(c) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

SEC. 2. Section 12282 is added to the Penal Code, to read:

12282. (a) Except as provided in Section 12280, possession of any assault weapon, as defined in Section 12276, 12276.1, or 12276.5, or of any .50 BMG rifle, as defined in Section 12278, in violation of this chapter is a public nuisance, solely for purposes of this section and subdivision (d) of Section 12028. The Attorney General, any district

attorney, or any city attorney, may, in lieu of criminal prosecution, bring a civil action or reach a civil compromise in any superior court to enjoin the possession of the assault weapon or .50 BMG rifle that is a public nuisance.

(b) Upon motion of the Attorney General, district attorney, or city attorney, a superior court may impose a civil fine not to exceed three hundred dollars ($300) for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a) and up to one hundred dollars ($100) for each additional assault weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a).

(c) Any assault weapon or .50 BMG rifle deemed a public nuisance under subdivision (a) shall be destroyed in a manner so that it may no longer be used, except upon a finding by a court, or a declaration from the Department of Justice, district attorney, or city attorney stating that the preservation of the assault weapon or .50 BMG rifle is in the interest of justice.

(d) Upon conviction of any misdemeanor or felony involving the illegal possession or use of an assault weapon, the assault weapon shall be deemed a public nuisance and disposed of pursuant to subdivision (d) of Section 12028.

CHAPTER 794

An act to add Section 1262.4 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. (a) Each hospital, as defined in subdivisions (a), (b), and (f) of Section 1250 of the Health and Safety Code, shall be represented in regional meetings to address the posthospital transition of homeless patients by the regional hospital association designee within which the hospital is located. Regional meetings shall include those convened by the three regional hospital associations, and smaller geographic sections comprised of hospitals in one or more county.

(b) Topics of discussion within the regional meetings shall include, but not be limited to, the identification of community-based best practices for the posthospital transition of homeless patients, methods to establish and support effective communications between hospitals and stakeholders

regarding this transition, and the identification of the resources, including supportive services, that are available or needed or both to assist with this transition.

(c) Each regional hospital association or smaller geographic grouping of hospitals, as determined by the regional hospital associations, shall invite key stakeholders within the region to address the regional planning meetings and provide relevant information for the topics under discussion. Key stakeholders include, but are not limited to, the county board of supervisors, law enforcement, county social services agencies, county health care service providers, continuum of care coordinators, as defined by the federal Department of Housing and Urban Development, nonprofit social service providers, and regional advocates for the homeless.

(d) By January 1, 2008, each regional hospital association or smaller geographic grouping of hospitals, as determined by the regional hospital associations, shall develop a document that is a compilation of recommendations based upon the regional planning meetings. The document shall be made available to the public and key stakeholders within a region.

(e) The requirements of this section shall not be construed to limit any other efforts of hospitals and key stakeholders to improve the transition of homeless patients.

(f) For purposes of this section, "homeless patient" means an individual who lacks a fixed and regular nighttime residence, or who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations, or who is residing in a public or private place that was not designed to provide temporary living accommodations or to be used as a sleeping accommodation for human beings.

SEC. 2. Section 1262.4 is added to the Health and Safety Code, to read:

1262.4. (a) No hospital, as defined in subdivisions (a), (b), and (f) of Section 1250, may cause the transfer of homeless patients from one county to another county for the purpose of receiving supportive services from a social service agency, health care service provider, or nonprofit social service provider within the other county, without prior notification to, and authorization from, the social service agency, health care service provider, or nonprofit social service provider.

(b) For purposes of this section, "homeless patient" means an individual who lacks a fixed and regular nighttime residence, or who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations, or who is residing in a public or private place that was

not designed to provide temporary living accommodations or to be used as a sleeping accommodation for human beings.

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 795

An act to add Sections 1241.1 and 1265.1 to the Business and Professions Code, and to add Section 14115.41 to the Welfare and Institutions Code, relating to clinical laboratories.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 1241.1 is added to the Business and Professions Code, to read:

1241.1. (a) A primary care clinic, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, that is operating within a network of primary care clinics, may be issued a license to operate a clinical laboratory pursuant to Section 1265, which authorizes the conduct of clinical laboratory tests and examinations from its network of primary care clinics, if all of the following conditions are met:

(1) The central laboratory's sole purpose is performing moderate or high complexity clinical laboratory tests and examinations, or both, for the patients of the clinics in the network.

(2) Prior to performing any tests or examinations, the central laboratory obtains a certificate under the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. 263a) (CLIA) and a state laboratory license for the appropriate complexity level of clinical laboratory testing pursuant to Section 1265.

(b) For purposes of this section, "network of primary care clinics" means two or more primary care clinics operated by the same nonprofit corporation with the same board of directors and the same corporate officers, and operating under the same procedures and protocols.

SEC. 2. Section 1265.1 is added to the Business and Professions Code, to read:

1265.1. (a) A primary care clinic that submits an application to the State Department of Health Services for clinic licensure pursuant to subdivision (a) of Section 1204 of the Health and Safety Code may submit prior to, or concurrent therewith, an application for licensure or registration of a clinical laboratory to be operated by the clinic.

(b) An application for licensure of a clinical laboratory submitted pursuant to this section shall be subject to all applicable laboratory licensing laws and regulations, including, but not limited to, any statutory or regulatory timelines and processes for review of a clinical laboratory application.

SEC. 3. Section 14115.41 is added to the Welfare and Institutions Code, to read:

14115.41. (a) For services that are performed at a central laboratory as authorized pursuant to Section 1241.1 of the Business and Professions Code, the department shall provide reimbursement directly to the laboratory performing the services and submitting the claim for reimbursement. Nothing in this section shall prohibit a primary care clinic network that utilizes centralized billing from submitting claims on the behalf of the network's central laboratory, if the claims are submitted with the central laboratory's provider number. The department shall not deny payment to a laboratory created pursuant to Section 1241.1 of the Business and Professions Code, for either of the following reasons:

(1) The clinic and the licensed central laboratory performing the services are owned and operated by the same nonprofit corporation with the same board of directors and the same corporate officers.

(2) The laboratory services are performed on a specimen collected at the clinic for a clinic patient.

(b) Nothing in this section shall be construed to allow a primary care clinic to submit a separate claim for central laboratory services currently reimbursed under the Medi-Cal program, utilizing the primary care clinic's provider number.

(c) The department may implement utilization controls or other cost-control measures to ensure that medically necessary services are appropriately rendered.

(d) (1) A primary care clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code that is affiliated with a network of primary care clinics may continue to submit claims for the laboratory services provided until such time that the primary care clinic receives a provider number for the central laboratory pursuant to this section, if all of the following requirements are met:

(A) The network of primary care clinics is operated by the same nonprofit corporation with the same board of directors and corporate officers.

(B) The primary care clinic operates under the same procedures and protocols as the affiliated clinics in the network, and the laboratory holds a valid Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. 263a) (CLIA) certificate and state laboratory license to perform moderate and high complexity laboratory services.

(C) The of primary care clinic has been providing laboratory testing services for the patients of the primary care clinic within the clinic network prior to August 1, 2006, and has been authorized by Medi-Cal to submit claims for those services.

(2) This subdivision shall remain operative until June 30, 2007.

CHAPTER 796

An act to amend Section 4094 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 4094 of the Welfare and Institutions Code is amended to read:

4094. (a) The State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services. The department may, upon the request of a county, delegate the certification and supervision of a community treatment facility to the county department of mental health.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall certify that a facility requesting licensure as a community treatment facility

pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility that is licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment, staffing, and for the use of psychotropic medication, discipline, and restraints in the facilities. The standards shall also meet the requirements of Section 4094.5.

(e) (1) Until January 1, 2010, all of the following are applicable:

(A) A community treatment facility shall not be required by the State Department of Mental Health to have 24-hour onsite licensed nursing staff, but shall retain at least one full-time, or full-time equivalent, registered nurse onsite if both of the following are applicable:

(i) The facility does not use mechanical restraint.

(ii) The facility only admits children who have been assessed, at the point of admission, by a licensed primary care provider and a licensed psychiatrist, who have concluded, with respect to each child, that the child does not require medical services that require 24-hour nursing coverage. For purposes of this section, a "primary care provider" includes a person defined in Section 14254, or a nurse practitioner who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of care, and for initiating referral for specialist care.

(B) Other medical or nursing staff shall be available on call to provide appropriate services, when necessary, within one hour.

(C) All direct care staff shall be trained in first aid and cardiopulmonary resuscitation, and in emergency intervention techniques and methods approved by the Community Care Licensing Division of the State Department of Social Services.

(2) The State Department of Mental Health may adopt emergency regulations as necessary to implement this subdivision. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be exempt from review by the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

(f) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(g) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 and either of the following conditions are met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

(2) Informed consent is given by a parent, guardian, conservator, or other person having custody of the minor.

(h) Any minor admitted to a community treatment facility shall have the same due process rights afforded to a minor who may be admitted to a state hospital, pursuant to the holding in In re Roger S. (1977) 19 Cal.3d 921. Minors who are wards or dependents of the court and to whom this subdivision applies shall be afforded due process in accordance with Section 6552 and related case law, including In re Michael E. (1975) 15 Cal.3d 183. Regulations adopted pursuant to Section 4094 shall specify the procedures for ensuring these rights, including provisions for notification of rights and the time and place of hearings.

(i) Notwithstanding Section 13340 of the Government Code, the sum of forty-five thousand dollars ($45,000) is hereby appropriated annually

from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

CHAPTER 797

An act to add Chapter 9 (commencing with Section 5610) to Part 5 of Division 9 of the Family Code, relating to child support.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Chapter 9 (commencing with Section 5610) is added to Part 5 of Division 9 of the Family Code, to read:

CHAPTER 9. PRIVATE CHILD SUPPORT COLLECTORS

5610. For the purposes of this chapter, "private child support collector" means any individual, corporation, attorney, nonprofit organization, or other nongovernmental entity who is engaged by an obligee to collect child support ordered by a court or other tribunal for a fee or other consideration. The term does not include any attorney who addresses issues of ongoing child support or child support arrearages in the course of an action to establish parentage or a child support obligation, a proceeding under Division 10 (commencing with Section 6200), a proceeding for dissolution of marriage, legal separation, or nullity of marriage, or in postjudgment or modification proceedings related to any of those actions. A "private child support collector" includes any private, nongovernmental attorney whose business is substantially comprised of the collection or enforcement of child support. As used in this section, substantially means that at least 50 percent of the attorney's business, either in terms of remuneration or time spent, is comprised of the activity of seeking to collect or enforce child support obligations for other individuals.

5611. (a) Any contract for the collection of child support between a private child support collector and an obligee shall be in writing and written in simple language, in at least 10-point type, signed by the private child support collector and the obligee. The contract shall be delivered to the obligee in a paper form that the obligee may retain for his or her records. The contract shall include all of the following:

(1) An explanation of the fees imposed by contract and otherwise permitted by law and an example of how they are calculated and deducted.

(2) A statement that the amount of fees to be charged is set by the agency and is not set by state law.

(3) A statement that the private child support collector cannot charge fees on current support if the obligee received any current child support during the 6 months preceding execution of the contract with the private collector.

(4) An explanation of the nature of the services to be provided.

(5) The expected duration of the contract, stated as a length of time or as an amount to be collected by the collection agency.

(6) An explanation of the opportunities available to the obligee or private child support collector to cancel the contract or other conditions under which the contract terminates.

(7) The mailing address, street address, telephone numbers, facsimile numbers, and Internet address or location of the private child support collector.

(8) A statement that the private child support collector is not a governmental entity and that governmental entities in California provide child support collection and enforcement services free of charge.

(9) A statement that the private child support collector collects only money owed to the obligee and not support assigned to the state or county due to the receipt of CalWORKs or Temporary Assistance to Needy Families.

(10) A statement that the private child support collector will not retain fees from collections that are primarily attributable to the actions of a governmental entity or any other person or entity and is required by law to refund any fees improperly retained.

(11) A statement that the obligee may continue to receive, or may pursue, services through a governmental entity to collect support, and the private child support collection agency will not require or request that the obligee cease or refrain from engaging those services.

(12) A notice that the private child support collector is required to keep and maintain case records for a period of four years and four months, after the expiration of the contract and may thereafter destroy or otherwise dispose of the records. The obligee may, prior to destruction or disposal, retrieve those portions of the records that are not confidential.

(13) A "Notice of Cancellation," which shall be included with the contract and which shall contain, in the same size font as the contract, the following statement, written in the same language as the contract:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within 15 business days from the date the contract is signed or you receive this notice, whichever is later, or at any time if the private child support collector commits a material breach of any provision of the contract or a material violation of any provision of this chapter with respect to the obligee or the obligor, or _____ (all other reasons for cancellation permitted).

To cancel this contract, mail or deliver a signed copy of this cancellation notice or any other written notice to _____(name of private child support collector) at _____ (address for mail or delivery) no later than midnight on _____(date).

I am canceling this contract._____(date)

_____(signature)"

(14) The following statement by the obligee on the first page of the contract:

"I understand that this contract calls for (name of private child support collector) to collect money owed to me, and not money owed to the state or county. If child support is owed to the state or county because I am receiving or have received program benefits from CalWORKs or Temporary Assistance to Needy Families, then (name of private child support collector) cannot collect that money for me. If I start to receive program benefits from CalWORKs or Temporary Assistance to Needy Families during this contract, I must notify (name of private child support collector) in writing."

"I declare by my signature below that the child support to be collected for me pursuant to this contract is not assigned to the state or county as of the time I sign this contract. I agree that I will give written notice to the private child support collector if I apply for program benefits under CalWORKs or Temporary Assistance to Needy Families during the term of this contract."

(15) (A) The following statement by the obligee immediately above the signature line of the contract:

"I understand that (name of private child support collector) will charge a fee for all the current child support and arrears it collects for me until the entire contract amount is collected or the contract terminates for another reason. I also understand that depending on the frequency and size of payments, it could take years for the amount specified in my contract to be collected. This means that if (name of private child support collector) is collecting my current support by wage withholding or other means, I will not receive the full amount of my periodic court-ordered

current support until the contract terminates since (name of private child support collector) will be deducting its fee from the periodic court-ordered current support it collects for me."

(B) The statement required by subparagraph (A) shall:

(i) Be in a type size that is at least equal to one-quarter of the largest type size used in the contract. In no event shall the disclosure be printed in less than 8-point type.

(ii) Be in a contrasting style, and contrasting color or bold type, which is equally or more visible than the type used in the contract.

(b) The disclosures required by paragraph (1) of subdivision (a) of Section 5612 shall be printed in the contract, as follows:

(1) In a type size that is at least equal to one-quarter of the largest type size used in the contract. In no event shall the disclosure be printed in less than 8-point type.

(2) In a contrasting style, and contrasting color or bold type that is equally or more visible than the type used in the contract.

(3) Immediately above, below, or beside the stated fee without any intervening words, pictures, marks, or symbols.

(4) In the same language as the contract.

5612. (a) Each private child support collector:

(1) That charges any initial fee, processing fee, application fee, filing fee, or other fee or assessment that must be paid by an obligee regardless of whether any child support collection is made on behalf of the obligee shall make the following disclosure in every radio, television, or print advertisement intended for a target audience consisting primarily of California residents:

"(Name of private child support collector) is not a governmental entity and charges an upfront fee for its services even if it does not collect anything."

(2) That does not charge any fee or assessment specified in paragraph (1) shall make the following disclosure in every radio, television, or print advertisement aired for a target audience consisting primarily of California residents:

"(Name of private child support collector) is not a governmental entity and charges a fee for its services."

(b) The disclosures required in subdivision (a) shall also be stated during the first 30 seconds of any initial telephone conversation with an obligee and in the private child support collector's contract.

5613. (a) An obligee shall have the right to cancel a contract with a private support collector under either of the following circumstances:

(1) Within 15 business days of the later of signing the contract, or receiving a blank notice of cancellation form, or at any time if the private child support collector commits a material breach of any provision of

the contract or a material violation of any provision of this chapter with respect to the obligee or the obligor.

(2) At the end of any 12-month period in which the total amount collected by the private child support collector is less than 50 percent of the amount scheduled to be paid under a payment plan.

(b) A contract shall automatically terminate when the contract term has expired or the contract amount has been collected, whichever occurs first.

5614. (a) A private child support collector shall do all of the following:

(1) (A) Provide to an obligee all of the following information:

(i) The name of, and any other identifying information relating to, any obligor who made child support payments collected by the private child support collector.

(ii) The amount of support collected by the private child support collector.

(iii) The date on which each amount was received by the private child support collector.

(iv) The date on which each amount received by the private child support collector was sent to the obligee.

(v) The amount of the payment sent to the obligee.

(vi) The source of payment of support collected and the actions affirmatively taken by the private child support collector that resulted in the payment.

(vii) The amount and percentage of each payment kept by the private child support collector as its fee.

(B) The information required by paragraph (A) shall be made available, at the option of the obligee, by mail, telephone, or via secure Internet access. If provided by mail, the notice shall be sent at least quarterly and, if provided by any other method, the information shall be updated and made available at least monthly. Information accessed by telephone and the Internet shall be up to date.

(2) Establish a direct deposit account with the state disbursement unit and shall within two business days from the date the funds are dispersed from the state disbursement unit to the private child support collector, if a portion of the funds constitute an obligor's fee, notify the Department of Child Support Services of the portion of each collection that constitutes a fee. The notification shall be sent by the private child support collector to the department in an electronic format to be determined by the department.

(3) Maintain records of all child support collections made on behalf of a client who is an obligee. The records required under this section shall be maintained by the private child support collector for the duration

of the contract plus a period of four years and four months from the date of the last child support payment collected by the private child support collector on behalf of an obligee. In addition to information required by paragraph (1), the private child support collector shall maintain the following:

(A) A copy of the order establishing the child support obligation under which a collection was made by the private child support collector.

(B) Records of all correspondence between the private child support collector and the obligee or obligor in a case.

(C) Any other pertinent information relating to the child support obligation, including any case, cause, or docket number of the court having jurisdiction over the matter and official government payment records obtained by the private child support collector on behalf of, and at the request of, the obligee.

(4) Safeguard case records in a manner reasonably expected to prevent intentional or accidental disclosure of confidential information pertaining to the obligee or obligor, including providing necessary protections for records maintained in an automated system.

(5) Ensure that every person who contracts with a private child support collector has the right to review all files and documents, both paper and electronic, in the possession of the private child support collector for the information specified in this paragraph regarding that obligee's case that are not required by law to be kept confidential. The obligee, during regular business hours, shall be provided reasonable access to and copies of the files and records of the private child support collector regarding all moneys received, collection attempts made, fees retained or paid to the private child support collector, and moneys disbursed to the obligee. The private child support collector may not charge a fee for access to the files and records, but may require the obligee to pay up to three cents ($0.03) per page for the copies prior to their release.

(6) Provide, prior to commencing collection activities, written notice of any contract with an obligee to the local child support agency that is enforcing the obligee's support order, if known, or the local child support agency for the county in which the obligee resides as of the time the contract is signed by the obligee. The notice shall identify the obligee, the obligor, and the amount of the arrearage claimed by the obligee.

(b) A private child support collector shall not do any of the following:

(1) Charge fees on current support if the obligee received any current child support during the six months preceding execution of the contract with the private child support collector. A private child support collector shall inquire of the obligee and record the month and year of the last current support payment and may rely on information provided by the obligee in determining whether a fee may be charged on current support.

(2) Improperly retain fees from collections that are primarily attributable to the actions of a governmental entity. The private child support collector shall refund all of those fees to the obligee immediately upon discovery or notice of the improper retention of fees.

(3) Collect or attempt to collect child support by means of any conduct that is prohibited of a debt collector collecting a consumer debt under Sections 1788.10 to 1788.16, inclusive, of the Civil Code. This chapter does not modify, alter, or amend the definition of a debt or a debt collector under the Rosenthal Fair Debt Collection Practices Act, Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code.

(4) Misstate the amount of the fee that may be lawfully paid to the private child support collector for the performance of the contract or the identity of the person who is obligated to pay that fee.

(5) Make a false representation of the amount of child support to be collected. A private child support collector is not in violation of this paragraph if it reasonably relied on sufficient documentation provided by the government entity collecting child support, a court with jurisdiction over the support obligation, or from the obligee, or upon sufficient documentation provided by the obligor.

(6) Ask any party other than the obligor to pay the child support obligation, unless that party is legally responsible for the obligation or is the legal representative of the obligor.

(7) Require, on or after January 1, 2007, as a condition of providing services to the obligee, that the obligee waive any right or procedure provided for in any state law regarding the right to file and pursue a civil action, or that the obligee agree to resolve disputes in a jurisdiction outside of California or to the application of laws other than those of California, as provided by law. Any waiver by the obligee of the right to file and pursue a civil action, the right to file and pursue a civil action in California, or the right to rely upon California law as provided by law must be knowing, voluntary, and not made a condition of doing business with the private child support collector. Any waiver, including, but not limited to, an agreement to arbitrate or regarding choice of forum or choice of law, that is required as a condition of doing business with the private child support collector, shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The private child support collector has the burden of proving that any waiver of rights, including any agreement to arbitrate a claim or regarding choice of forum or choice of law, was knowing, voluntary, and not made a condition of the contract with the obligee.

5615. (a) (1) A person may bring an action for actual damages incurred as a result of a violation of this chapter.

(2) In addition to actual damages, a private child support collector who willfully and knowingly violates the provisions of this chapter shall be liable for a civil penalty in an amount determined by the court, which may not be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) (A) The prevailing party in any action pursuant to this chapter shall be entitled to recover the costs of the action. Reasonable attorney's fees, which shall be based on the time necessarily expended to enforce the liability, shall be awarded to a prevailing party, other than the private child support collector, asserting rights under this chapter. Reasonable attorney's fees may be awarded to a prevailing private child support collector if the court finds that the party bringing the action did not prosecute the action in good faith.

(B) In an action by an obligor under this chapter, the private child support collector shall have no civil liability under this chapter to the obligor under any circumstance in which a debt collector would not have civil liability under Section 1788.30 of the Civil Code.

(4) A private child support collector is not in violation of this chapter if the private child support collector shows, by a preponderance of the evidence, that the action complained of was not intentional and resulted from a bona fide error that occurred notwithstanding the use of reasonable procedures to avoid the error.

(5) The remedies provided in this section are cumulative and are in addition to any other procedures, rights, or remedies available under any other law.

(b) Any waiver of the rights, requirements, and remedies provided by this chapter violates public policy and is void.

(c) Notwithstanding any other provision of this chapter, including provisions establishing a right of cancellation and requiring notice thereof, any contract for the collection of child support between an attorney who is a "private child support collector" pursuant to Section 5610 shall conform to the statutes, rules, and case law governing attorney conduct, including the provisions of law providing that a contract with an attorney is cancelable by the attorney's client at any time. Upon cancellation of that contract, the attorney may seek compensation as provided by law, including, if applicable, a claim for the reasonable value of any services rendered to the attorney's client pursuant to the doctrine of quantum meruit, provided those services lead to the collection of support and the compensation is limited to what would have been collected had the contract been in effect. To the extent that the provisions of this chapter are in conflict with the provisions of state law governing the conduct of attorneys, this chapter shall control. If there is no conflict,

an attorney who is a "private child support collector" pursuant to Section 5610 shall conform to the provisions of this chapter.

5616. (a) Every court order for child support issued on or after January 1, 2010, and every child support agreement providing for the payment of child support approved by a court on or after January 1, 2010, shall include a separate money judgment owed by the child support obligor to pay a fee not to exceed 33 and ⅓ percent of the total amount in arrears, and not to exceed 50 percent of the fee as charged by a private child support collector pursuant to a contract complying with the requirements of this chapter and any other child support collections costs expressly permitted by the child support order for the collection efforts undertaken by the private child support collector. The money judgment shall be in favor of the private child support collector and the child support obligee, jointly, but shall not constitute a private child support collector lien on real property unless an abstract of judgment is recorded pursuant to subdivision (d). Except as provided in subdivision (c), the money judgement may be enforced by the private child support collector by any means available to the obligee for the enforcement of the child support order without any additional action or order by the court. Nothing in this chapter shall be construed to grant the private child support collector any enforcement remedies beyond those authorized by federal or state law. Any fee collected from the obligor pursuant to a contract complying with the requirements of this chapter, shall not constitute child support.

(b) If the child support order makes the obligor responsible for payment of collection fees and costs, fees that are deducted by a private child support collector may not be credited against child support arrearages or interest owing on arrearages or any other money owed by the obligor to the obligee.

(c) If the order for child support requires payment of collection fees and costs by the obligor, then not later than five days after the date that the private child support collector makes its first collection, written notice shall be provided to the obligor of (1) the amount of arrearages subject to collection, (2) the amount of the collection that shall be applied to the arrearage, and (3) the amount of the collection that shall be applied to the fees and costs of collection. The notice shall provide that, in addition to any other procedures available, the obligor has 30 days to file a motion to contest the amount of collection fees and costs assessed against the obligor.

(d) Any fees or monetary obligations resulting from the contract between an obligee parent and a private child support collector, or moneys owed to a private child support collector by the obligor parent or obligee parent as a result of the private child support collector's efforts,

does not create a lien on real property, unless an abstract of judgment is obtained from the court and recorded by the private child support collector against the real property in the county in which it is located, nor shall that amount be added to any existing lien created by a recorded abstract of support or be added to an obligation on any abstract of judgment. A private child support collector lien shall have the force, effect, and priority of a judgment lien.

(e) An assignment to a private child support collector is a voluntary assignment for the purpose of collecting the domestic support obligation as defined in Section 101 of Title 11 of the United States Bankruptcy Code (11 U.S.C. Section 101 (14 A)).

CHAPTER 798

An act to amend Section 43023.5 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 43023.5 of the Health and Safety Code is amended to read:

43023.5. (a) Districts with a population of one million residents or greater, in consultation with the state board, shall ensure that not less than 50 percent of the funds appropriated for purposes of the programs specified in paragraphs (1) to (3), inclusive, are expended in a manner that directly reduces air contaminants or reduces the public health risks associated with air contaminants in those districts, including, but not limited to, airborne toxics and particulate matter, in communities with the most significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both:

(1) The Carl Moyer Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code).

(2) Programs for the purchase of reduced-emissions schoolbuses.

(3) Diesel mitigation programs.

(b) A district with less than one million residents is encouraged to expend funds available to the district for the purposes specified in

subdivision (a) in a manner similar to that set forth in subdivision (a), to the extent that district determines that this is feasible.

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

CHAPTER 799

An act to amend Section 1370 of the Penal Code and to amend Section 5350 of the Welfare and Institutions Code, relating to competency.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 1370 of the Penal Code is amended to read:

1370. (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced.

(B) If the defendant is found mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent.

(i) In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered, or to any other available public or private treatment facility approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall so notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a

state hospital or other secure treatment facility for the care and treatment of the mentally disordered unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

(iii) If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person's release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

(iv) The clerk of the court shall notify the Department of Justice in writing of any finding of mental incompetence with respect to a defendant who is subject to clause (ii) or (iii) for inclusion in his or her state summary criminal history information.

(C) Upon the filing of a certificate of restoration to competence, the court shall order that the defendant be returned to court in accordance with Section 1372. The court shall transmit a copy of its order to the community program director or a designee.

(D) A defendant charged with a violent felony may not be delivered to a state hospital or treatment facility pursuant to this subdivision unless the state hospital or treatment facility has a secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.

(E) For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.

(F) A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places a defendant charged with a violent felony on outpatient status, as specified in Section 1600, the court must serve copies of the placement order on defense counsel, the sheriff in the county where the defendant will be placed and the district attorney for the county in which the violent felony charges are pending against the defendant.

(2) Prior to making the order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall proceed as follows:

(A) The court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee.

(B) The court shall hear and determine whether the defendant, with advice of his or her counsel, consents to the administration of antipsychotic medication, and shall proceed as follows:

(i) If the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with this subdivision regarding whether antipsychotic medication shall be administered involuntarily.

(ii) If the defendant does not consent to the administration of medication, the court shall hear and determine whether any of the following is true:

(I) The defendant lacks capacity to make decisions regarding antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the patient will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to his or her physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and his or her condition is substantially deteriorating. The fact that a defendant has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the defendant.

(II) The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial

physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.

(III) The people have charged the defendant with a serious crime against the person or property; involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial; the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner; less intrusive treatments are unlikely to have substantially the same results; and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.

(iii) If the court finds any of the conditions described in clause (ii) to be true, the court shall issue an order authorizing the treatment facility to involuntarily administer antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist. The court shall not order involuntary administration of psychotropic medication under subclause (III) of clause (ii) unless the court has first found that the defendant does not meet the criteria for involuntary administration of psychotropic medication under subclause (I) of clause (ii) and does not meet the criteria under subclause (II) of clause (ii).

(iv) In all cases, the treating hospital, facility or program may administer medically appropriate antipsychotic medication prescribed by a psychiatrist in an emergency as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.

(v) Any report made pursuant to paragraph (1) of subdivision (b) shall include a description of any antipsychotic medication administered to the defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a state hospital or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the state hospital or other treatment facility, shall have the right to contact the Patients' Rights Advocate regarding his or her rights under this section.

(C) If the defendant consented to antipsychotic medication as described in clause (i) of subparagraph (B), but subsequently withdraws

his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (ii) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication as specified in subclause (I) of clause (ii) of subparagraph (B), or that the defendant is a danger to others as specified in subclause (II) of clause (ii) of subparagraph (B), the committing court shall be notified of this, including an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate. The court shall provide notice to the prosecuting attorney and to the attorney representing the defendant and shall set a hearing to determine whether involuntary antipsychotic medication should be ordered in the manner described in subparagraph (B).

(3) When the court orders that the defendant be confined in a state hospital or other public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other treatment facility where the defendant is to be confined:

(A) The commitment order, including a specification of the charges.

(B) A computation or statement setting forth the maximum term of commitment in accordance with subdivision (c).

(C) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.

(D) State summary criminal history information.

(E) Any arrest reports prepared by the police department or other law enforcement agency.

(F) Any court-ordered psychiatric examination or evaluation reports.

(G) The community program director's placement recommendation report.

(H) Records of any finding of mental incompetence pursuant to this chapter arising out of a complaint charging a felony offense specified in Section 290 or any pending Section 1368 proceeding arising out of a charge of a Section 290 offense.

(4) When the defendant is committed to a treatment facility pursuant to clause (i) of subparagraph (B) of paragraph (1) or the court makes the findings specified in clause (ii) or (iii) of subparagraph (B) of paragraph (1) to assign the defendant to a treatment facility other than a state

hospital or other secure treatment facility, the court shall order that notice be given to the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility of any finding of mental incompetence pursuant to this chapter arising out of a charge of a Section 290 offense.

(5) When directing that the defendant be confined in a state hospital pursuant to this subdivision, the court shall select the hospital in accordance with the policies established by the State Department of Mental Health.

(6) (A) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). Where either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the community program director or a designee.

(B) If the defendant is initially committed to a state hospital or secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is subsequently transferred to any other facility, copies of the documents specified in paragraph (3) shall be taken with the defendant to each subsequent facility to which the defendant is transferred. The transferring facility shall also notify the appropriate law enforcement agency or agencies having local jurisdiction at the site of the new facility that the defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment, or a designee, concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the community program director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the community program director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the community program director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the community program director on the defendant's progress toward recovery, and the community program director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the community program director or a designee.

(2) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the community program director or a designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. The court shall transmit a copy of its order to the community program director or a designee.

(4) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination.

(c) (1) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, a defendant who has not recovered mental competence shall be returned to the committing court. The court shall notify the community program director or a designee of the return and of any resulting court orders.

(2) Whenever any defendant is returned to the court pursuant to paragraph (1) or (2) of subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director or a designee, the sheriff and the district attorney of the county in which criminal charges are pending, and the defendant's counsel of record. The court shall notify the community program director or a designee, the sheriff and district attorney of the county in which criminal charges are pending, and the defendant's counsel of record of the outcome of the conservatorship proceedings.

(3) If a change in placement is proposed for a defendant who is committed pursuant to subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall provide notice and an opportunity to be heard with respect to the proposed placement of the defendant to the sheriff and the district attorney of the county in which criminal charges are pending.

(4) Where the defendant is confined in a treatment facility, a copy of any report to the committing court regarding the defendant's progress toward recovery of mental competence shall be provided by the committing court to the prosecutor and to the defense counsel.

(d) The criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the community program director or a designee.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings that may be appropriate under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(f) As used in this chapter, "community program director" means the person, agency, or entity designated by the State Department of Mental Health pursuant to Section 1605 of this code and Section 4360 of the Welfare and Institutions Code.

(g) For the purpose of this section, "secure treatment facility" shall not include, except for state mental hospitals, state developmental centers, and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.

SEC. 2. Section 5350 of the Welfare and Institutions Code is amended to read:

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism.

The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) (1) Appointment of a conservator under this part, including the appointment of a conservator for a person who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(2) In appointing a conservator, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the court shall consider the purposes of protection of the public and the treatment of the conservatee. Notwithstanding any other provision of this section, the court shall not appoint the proposed conservator if the court determines that appointment of the proposed conservator will not result in adequate protection of the public.

(c) No conservatorship of the estate pursuant to this chapter shall be established if a conservatorship or guardianship of the estate exists under the Probate Code. When a gravely disabled person already has a guardian

or conservator of the person appointed under the Probate Code, the proceedings under this chapter shall not terminate the prior proceedings but shall be concurrent with and superior thereto. The superior court may appoint the existing guardian or conservator of the person or another person as conservator of the person under this chapter.

(d) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue whether he or she is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, the demand shall constitute a waiver of the hearing.

Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) (1) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter.

(4) This subdivision does not apply to a person who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008.

(f) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Section 1826 or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(g) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code.

(h) As otherwise provided in this chapter.

CHAPTER 800

An act to amend Sections 7500, 7501, 7502, 7510, 7511, 7512, 7512.5, 7513, 7514, 7515, 7518, 7520, 7521, 7522, 7530, and 7552 of the Penal Code, relating to health.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

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

SECTION 1. Section 7500 of the Penal Code is amended to read:

7500. The Legislature finds and declares all of the following:

(a) The public peace, health, and safety is endangered by the spread of the human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis B and C within state and local correctional institutions.

(b) The spread of AIDS and hepatitis B and C within prison and jail populations presents a grave danger to inmates within those populations, law enforcement personnel, and other persons in contact with a prisoner infected with the HIV virus as well as hepatitis B and C, both during and after the prisoner's confinement. Law enforcement personnel and prisoners are particularly vulnerable to this danger, due to the high number of assaults, violent acts, and transmissions of bodily fluids that occur within correctional institutions.

(c) HIV, as well as hepatitis B and C, have the potential of spreading more rapidly within the closed society of correctional institutions than outside these institutions. These major public health problems are compounded by the further potential of the rapid spread of communicable disease outside correctional institutions through contacts of an infected prisoner who is not treated and monitored upon his or her release, or by law enforcement employees who are unknowingly infected.

(d) New diseases of epidemic proportions such as AIDS may suddenly and tragically infect large numbers of people. This title primarily addresses a current problem of this nature, the spread of HIV, as well as hepatitis B and C, among those in correctional institutions and among the people of California.

(e) HIV, AIDS, and hepatitis B and C pose a major threat to the public health and safety of those governmental employees and others whose responsibilities bring them into direct contact with persons afflicted with

those illnesses, and the protection of the health and safety of these personnel is of equal importance to the people of the State of California as the protection of the health of those afflicted with the diseases who are held in custodial situations.

(f) Testing described in this title of individuals housed within state and local correctional facilities for evidence of infection by HIV and hepatitis B and C would help to provide a level of information necessary for effective disease control within these institutions and would help to preserve the health of public employees, inmates, and persons in custody, as well as that of the public at large. This testing is not intended to be, and shall not be construed as, a prototypical method of disease control for the public at large.

SEC. 2. Section 7501 of the Penal Code is amended to read:

7501. In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential test for HIV or for hepatitis B or C of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe that he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, or the transmission of hepatitis B or C, based on the latest determinations and conclusions by the federal Centers for Disease Control and Prevention and the State Department of Health Services on means for the transmission of AIDS or hepatitis B and C, and if appropriate medical authorities, as provided in this title, reasonably believe there is good medical reason for the test.

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS or hepatitis B or C, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from HIV infection or AIDS or hepatitis B or C and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested

positive or who have AIDS or hepatitis B or C, and provide appropriate counseling and safety equipment.

SEC. 3. Section 7502 of the Penal Code is amended to read:

7502. As used in this title, the following terms shall have the following meanings:

(a) "Correctional institution" means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.

(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Health Services for purposes of providing counseling on AIDS and hepatitis B and C to inmates, persons in custody, and other persons pursuant to this title.

(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers, and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, prosecutors and staff, and public defenders and staff, who, as part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, prosecution, representation, or care of these persons.

(d) "AIDS" means acquired immune deficiency syndrome.

(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

(g) "Inmate" means any of the following:

(1) A person in a state prison, or city and county jail, who has been either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.

(2) Any person in a Division of Juvenile Justice facility, or county- or city-operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.

(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control and Prevention

or State Department of Health Services in appropriate regulations as capable of transmitting HIV or hepatitis B or C.

(i) "Minor" means a person under 15 years of age.

SEC. 4. Section 7510 of the Penal Code is amended to read:

7510. (a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, a person charged with any crime, whether or not the person is in custody, or a person on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the State Department of Health Services. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement employee. Utilizing this form the law enforcement employee may request a test for HIV or hepatitis B or C of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency, however the processing of a form by the chief medical officer containing a request for HIV or hepatitis B or C testing of the subject person shall not be delayed by the processing of other reports or forms.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section, Section 7502, and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the Division of Juvenile Justice, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or a court facility, or who has been arrested or taken into custody whether

or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for, or charged with, an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, or a person charged with a crime, whether or not the person is in custody, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, a prosecutor or staff person, a public defender attorney or staff person, the county health officer of the county in which the probation officer, prosecutor or staff person, a public defender attorney or staff person, is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician and surgeon, the chief medical officer shall designate a physician and surgeon to perform his or her duties under this title.

SEC. 5. Section 7511 of the Penal Code is amended to read:

7511. (a) The chief medical officer shall, regardless of whether a report filed pursuant to Section 7510 contains a request for HIV or hepatitis B or C testing, decide whether or not to require HIV or hepatitis B or C testing of the inmate or other person who is the subject of the report filed pursuant to Section 7510, within 24 hours of receipt of the report. If the chief medical officer decides to require HIV or hepatitis B or C testing, he or she shall specify in his or her decision the circumstances, if any, under which followup testing will also be required.

(b) The chief medical officer shall order an HIV or hepatitis B or C test only if he or she finds that, considering all of the facts and circumstances, there is a significant risk that HIV or hepatitis B or C was transmitted. In making this decision, the chief medical officer shall take the following factors into consideration:

(1) Whether an exchange of bodily fluids occurred which could have resulted in a significant risk of AIDS or hepatitis B or C infection, based on the latest written guidelines and standards established by the federal Centers for Disease Control and Prevention and the State Department of Health Services.

(2) Whether the person exhibits medical conditions or clinical findings consistent with HIV or hepatitis B or C infection.

(3) Whether the health of the institution staff or inmates may have been endangered as to HIV or hepatitis B or C infection resulting from the reported incident.

(c) Prior to reaching a decision, the chief medical officer may if needed receive written or oral testimony from the law enforcement employee filing the report, from the subject of the report, and from witnesses to the incident, as he or she deems necessary for a complete investigation.

The decision shall be in writing and shall state the reasons for the decision. A copy shall be provided by the chief medical officer to the law enforcement employee who filed the report and to the subject of the report, and where the subject is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

SEC. 6. Section 7512 of the Penal Code is amended to read:

7512. (a) An inmate of a correctional institution may request testing for HIV or hepatitis B or C of another inmate of that institution if he or she has reason to believe that he or she has come into contact with the bodily fluids of that inmate, in situations, which may include, but are not limited to, rape or sexual contact with a potentially infected inmate, tattoo- or drug-needle sharing, an incident involving injury in which bodily fluids are exchanged, or confinement with a cellmate under circumstances involving possible mingling of bodily fluids. A request may be filed under this section only within two calendar days of the date when the incident causing the request occurred, except that the chief medical officer may waive this filing period requirement when he or she finds that good cause exists.

(b) An inmate in a Division of Juvenile Justice facility or any county- or city-operated juvenile facility who is 15 years of age or older may file a request for a test of another inmate in that facility, in the same manner as an inmate in a state prison, and is subject to the same procedures and rights. An inmate in a Division of Juvenile Justice facility or a county- or city-operated juvenile facility who is a minor may file a request for testing through a staff member of the facility in which he or she is confined. A staff member may file this request on behalf of a minor on his or her own volition if he or she believes that a situation meeting the criteria specified in subdivision (a) has occurred warranting the request. The filing of a request by staff on behalf of an inmate of a Division of Juvenile Justice facility or a local juvenile facility shall be within two calendar days of its discovery by staff, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists.

When a request is filed on behalf of a minor, the facility shall notify the parent or guardian of the minor of the request and seek permission from the parent or guardian for the test request to proceed. If the parent or guardian refuses to grant permission for the test, the Director of the Division of Juvenile Facilities may request the juvenile court in the county in which the facility is located, to rule on whether the test request procedure set forth in this title shall continue. The juvenile court shall make a ruling within five days of the case being brought before the court.

If the parent or guardian cannot be located, the superintendent of the facility shall approve or disapprove the request for a test.

(c) Upon receipt of a request for testing as provided in this section, a law enforcement employee shall submit the request to the chief medical officer, the identity of which shall be determined as if the request had been made by an employee of the facility. The chief medical officer shall follow the procedures set forth in Section 7511 with respect to investigating the request and reaching a decision as to mandatory testing of the inmate who is the subject of the request. The inmate submitting the request shall provide names or testimony of witnesses within the limits of his or her ability to do so. The chief medical officer shall make his or her decision based on the criteria set forth in Section 7511. A copy of the chief medical officer's decision shall be provided to the person submitting the request for HIV or hepatitis B or C testing, to the subject of the request, and to the superintendent of the correctional institution. In the case of a minor, a copy of the decision shall be provided to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

SEC. 7. Section 7512.5 of the Penal Code is amended to read:

7512.5. In the absence of the filing of a report pursuant to Section 7510 or a request pursuant to Section 7512, the chief medical officer may order a test of an inmate if he or she concludes there are clinical symptoms of HIV infection, AIDS, or hepatitis B or C, as recognized by the federal Centers for Disease Control and Prevention or the State Department of Health Services.

A copy of the decision shall be provided to the inmate, and where the inmate is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located. Any decision made pursuant to this section shall not be appealable to a three-member panel provided for under Section 7515.

SEC. 8. Section 7513 of the Penal Code is amended to read:

7513. An inmate who is the subject of an HIV or hepatitis B or C test report filed pursuant to Section 7510 or an HIV or hepatitis B or C test report filed pursuant to Section 7512 shall receive, in conjunction with the decision of the chief medical officer to order a test, a copy of this title, a written description of the right to appeal the chief medical officer's decision which includes the applicable timelines, and notification of his or her right to receive pretest and posttest HIV counseling by staff that have been certified as HIV test counselors or to receive hepatitis B or C test results and counseling from a licensed medical professional.

SEC. 9. Section 7514 of the Penal Code is amended to read:

7514. (a) It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request

pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject.

(b) The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV or hepatitis B or C testing if the chief medical officer deems it medically advisable. All testing required by this title or any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.

SEC. 10. Section 7515 of the Penal Code is amended to read:

7515. (a) A decision of the chief medical officer made pursuant to Section 7511, 7512, or 7516 may be appealed, within three calendar days of receipt of the decision, to a three-person panel, either by the person required to be tested, his or her parent or guardian when the subject is a minor, the law enforcement employee filing a report pursuant to either Section 7510 or 7516, or the person requesting testing pursuant to Section 7512, whichever is applicable, or the chief medical officer, upon his or her own motion. If no request for appeal is filed under this subdivision, the chief medical officer's decision shall be final.

(b) Depending upon which entity has jurisdiction over the person requesting or appealing a test, the Department of Corrections and Rehabilitation, the Division of Juvenile Justice, the county, the city, or the county and city shall convene the appeal panel and shall ensure that the appeal is heard within seven calendar days.

(c) A panel required pursuant to subdivision (a) or (b) shall consist of three members, as follows:

(1) The chief medical officer making the original decision.

(2) A physician and surgeon who has knowledge in the diagnosis, treatment, and transmission of HIV or hepatitis B and C, selected by the Department of Corrections and Rehabilitation, the Division of Juvenile Justice, the county, the city, or the county and city. The physician and surgeon appointed pursuant to this paragraph shall preside at the hearing and serve as chairperson.

(3) A physician and surgeon not on the staff of, or under contract with, a state, county, city, or county and city correctional institution or with an employer of a law enforcement employee as defined in

subdivision (b) of Section 7502, and who has knowledge of the diagnosis, treatment, and transmission of HIV or hepatitis B and C. The physician and surgeon appointed pursuant to this paragraph shall be selected by the State Department of Health Services from a list of persons to be compiled by that department. The State Department of Health Services shall adopt standards for selecting persons for the list required by this paragraph, as well as for their reimbursement, and shall, to the extent possible, utilize its normal process for selecting consultants in compiling this list.

The Legislature finds and declares that the presence of a physician and surgeon on the panel who is selected by the State Department of Health Services enhances the objectivity of the panel, and it is the intent of the Legislature that the State Department of Health Services make every attempt to comply with this subdivision.

(d) The Department of Corrections and Rehabilitation, the county, the city, or the county and city shall notify the Office of AIDS in the State Department of Health Services when a panel must be convened under subdivision (a) wherein HIV testing has been requested or the State Department of Health Services when a test for hepatitis B or C has been requested. Within two calendar days of the notification, a physician and surgeon appointed under paragraph (3) of subdivision (c) shall reach agreement with the Department of Corrections, the county, the city, or the county and city on a date for the hearing that complies with subdivision (b).

(e) If the Office of AIDS in the State Department of Health Services or, in the case of a hepatitis B or C test, the State Department of Health Services, fails to comply with subdivision (d) or the physician and surgeon appointed under paragraph (3) of subdivision (c) fails to attend the scheduled hearing, the Department of Corrections and Rehabilitation, the county, the city, or the county and city shall appoint a physician and surgeon who has knowledge of the diagnosis, treatment, and transmission of HIV and hepatitis B and C to serve on the appeals panel to replace the physician and surgeon required under paragraph (3) of subdivision (c). The Department of Corrections and Rehabilitation, the county, the city, or the county and city shall have standards for selecting persons under this subdivision and for their reimbursement.

The Department of Corrections and Rehabilitation, the Division of Juvenile Justice, the county, the city, or the county and city shall, whenever feasible, create, and utilize ongoing panels to hear appeals under this section. The membership of the panel shall meet the requirements of paragraphs (1), (2), and (3) of subdivision (c).

No panel shall be created pursuant to this paragraph by a county, city, or county and city correctional institution except with the prior approval of the local health officer.

(f) A hearing conducted pursuant to this section shall be closed, except that each of the following persons shall have the right to attend the hearing, speak on the issues presented at the hearing, and call witnesses to testify at the hearing:

(1) The chief medical officer, who may also bring staff essential to the hearing, as well as the other two members of the panel.

(2) The subject of the chief medical officer's decision, except that a subject who is a minor may attend only with the consent of his or her parent or guardian and, if the subject is a minor, his or her parent or guardian.

(3) The law enforcement employee filing the report pursuant to Section 7510, or the person requesting HIV or hepatitis B or C testing pursuant to Section 7512, whichever is applicable and, if the person is a minor, his or her parent or guardian.

(g) The subject of the test, or the person requesting the test pursuant to Section 7512, or who filed the report pursuant to Section 7510, whichever is applicable, may appoint a representative to attend the hearing in order to assist him or her.

(h) When a hearing is sought pursuant to this section, or filed by a law enforcement employee pursuant to a request made under Section 7510, the decision shall be rendered within two days of the hearing. A unanimous vote of the panel shall be necessary in order to require that the subject of the hearing undergo HIV or hepatitis B or C testing.

The criteria specified in Section 7511 for use by the chief medical officer shall also be utilized by the panel in making its decision.

The decision shall be in writing, stating reasons for the decision, and shall be signed by the members. A copy shall be provided by the chief medical officer to the person requesting the test, or filing the report, whichever is applicable, to the subject of the test, and, when the subject is in a correctional institution, to the superintendent of the institution, except that, when the subject of the test or the person upon whose behalf the request for the test was made is a minor, copies shall also be provided to the parent or guardian of the minor, unless the parent or guardian cannot be located.

SEC. 11. Section 7518 of the Penal Code is amended to read:

7518. (a) The Department of Corrections and Rehabilitation and local health officers shall adopt guidelines for the making of decisions pursuant to this chapter in consultation with the Office of AIDS in the State Department of Health Services for HIV testing and with the State Department of Health Services for hepatitis B and C testing. The

guidelines shall be based on the latest written guidelines of HIV or hepatitis B and C transmission and infection established by the federal Centers for Disease Control and Prevention and the State Department of Health Services.

(b) Oversight responsibility for implementation of the applicable provisions of this title, including the oversight of reports involving parole officers and the staff of state adult and youth correctional facilities shall be vested with the Chief of Medical Services in the Department of Corrections and Rehabilitation.

Oversight responsibility at the county, the city, or the county and city level shall rest with the local health officer.

SEC. 12. Section 7520 of the Penal Code is amended to read:

7520. Upon the release of an inmate from a correctional institution, a medical representative of the institution shall notify the inmate's parole or probation officer, where it is the case, that the inmate has tested positive for infection with HIV, or has been diagnosed as having AIDS or hepatitis B and C. The representative of the correctional institution shall obtain the latest available medical information concerning any precautions which should be taken under the circumstances, and shall convey that information to the parole or probation officer.

When a parole or probation officer learns from responsible medical authorities that a parolee or probationer under his or her jurisdiction has AIDS or has tested positive for HIV infection, or hepatitis B or C, the parole or probation officer shall be responsible for ensuring that the parolee or probationer contacts the county health department in order to be, or through his or her own physician and surgeon is, made aware of counseling and treatment for AIDS or hepatitis B or C, as appropriate commensurate with that available to the general population of that county.

SEC. 13. Section 7521 of the Penal Code is amended to read:

7521. (a) When a parole or probation officer learns from responsible medical authorities that a parolee or probationer in his or her custody has any of the conditions listed in Section 7520, but that the parolee or probationer has not properly informed his or her spouse, the officer may ensure that this information is relayed to the spouse only through either the chief medical officer of the institution from which the person was released or the physician and surgeon treating the spouse or the parolee or probationer. The parole or probation officer shall seek to ensure that proper counseling accompanies release of this information to the spouse, through the person providing the information to the inmate's spouse.

(b) If a parole or probation officer has received information from appropriate medical authorities that one of his or her parolees or probationers is HIV infected or has AIDS or hepatitis B or C, and the parolee or probationer has a record of assault on a peace officer, and the

officer seeks the aid of local law enforcement officers to apprehend or take into custody the parolee or probationer, he or she shall inform the officers assisting him or her in apprehending or taking into custody the parolee or probationer, of the person's condition, to aid them in protecting themselves from contracting AIDS or hepatitis B or C.

(c) Local law enforcement officers receiving information pursuant to this subdivision shall maintain confidentiality of information received pursuant to subdivision (b). Willful use or disclosure of this information is a misdemeanor. Parole or probation officers who willfully or negligently disclose information about AIDS or hepatitis B or C infection, other than as prescribed under this title or any other provision of law, shall also be guilty of a misdemeanor.

SEC. 14. Section 7522 of the Penal Code is amended to read:

7522. (a) Supervisory and medical personnel in correctional institutions shall notify all law enforcement employees when those employees have had direct contact with the bodily fluids of inmates or persons charged or in custody who either have tested positive for infection with HIV, or been diagnosed as having AIDS or hepatitis B or C.

(b) Supervisory and medical personnel at correctional institutions shall provide to employees covered by this section the latest medical information regarding precautions to be taken under the circumstances, and shall furnish proper protective clothing and other necessary protective devices or equipment, and instruct staff on the applicability of this title.

(c) The law enforcement employee who reported an incident pursuant to Section 7510 shall be notified of the results of any test administered to any person as a result of the reporting.

SEC. 15 Section 7530 of the Penal Code is amended to read:

7530. The following procedures shall apply to testing conducted under this title:

(a) The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this title.

(b) The chief medical officer, as specified in Chapter 2 (commencing with Section 7510), shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of HIV testing, and that tests including all readily available confirmatory tests be conducted thereon for medically accepted indications of exposure to or infection with HIV. The State Department of Health Services shall adopt standards for the approval of medical laboratories for the conducting of HIV testing under this title. The State Department of Health Services shall adopt

standards for the conducting of tests under Section 7530. Testing for hepatitis B or C may be conducted by any licensed medical laboratory approved by the chief medical officer.

(c) Copies of the test results shall be sent by the laboratory to the chief medical officer who made the decision under either Section 7511 or 7512 or who convened the panel under Section 7515 or 7516. The laboratory shall be responsible for protecting the confidentiality of these test results. Willful or negligent breach of this responsibility shall be grounds for a violation of the contract.

(d) The test results shall be sent by the chief medical officer to the designated recipients with the following disclaimer:

"The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate."

(e) If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.

(f) All persons, other than the test subject, who receive test results shall maintain the confidentiality of personal identifying data relating to the test results, except for disclosure which may be necessary to obtain medical or psychological care or advice, or to comply with this title.

(g) The specimens and the results of the tests shall not be admissible evidence in any criminal or disciplinary proceeding.

(h) Any person performing testing, transmitting test results, or disclosing information in accordance with this title shall be immune from civil liability for any action undertaken in accordance with this title.

SEC. 16 Section 7552 of the Penal Code is amended to read:

7552. (a) It is recommended that every city or county correctional, custodial, and law enforcement agency to which this title applies have a comprehensive AIDS and HIV prevention and education program in operation by March 31, 1989. Recommended goals for the programs include all of the following:

(1) Education. Implementation of an educational plan which includes education and training for officers, support staff, and inmates on the prevention and transmission of HIV, with regular updates, at least every three months, with all persons held in custody for at least 12 hours in a correctional institution being provided at least with a pamphlet approved by the county health officer, and more detailed education for persons kept beyond three days.

(2) Body fluid precautions. Because all bodily fluids are considered as potentially infectious, supplying all employees of correctional

institutions with the necessary equipment and supplies to follow accepted universal bodily fluids precautions, including gloves and devices to administer cardiopulmonary resuscitation, when dealing with infected persons or those in high-risk groups for HIV or hepatitis B or C.

(3) Separate housing for infected individuals. Making available adequate separate housing facilities for housing inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV, with facilities comparable to those of other inmates with access to recreational and educational facilities, commensurate with the facilities available in the correctional institution.

(4) Adequate AIDS medical services. The provision of medical services appropriate for the diagnosis and treatment of HIV infection.

(5) These guidelines are advisory only and do not constitute a state mandate.

(b) The program shall require confidentiality of information in accordance with this title and other provisions of law.

(c) The Corrections Standards Authority and the State Department of Health Services shall assist in developing the programs.

SEC. 17. 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 801

An act to add Part 5.8 (commencing with Section 17850) to Division 9 of the Welfare and Institutions Code, relating to public benefits.

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

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

SECTION 1. Part 5.8 (commencing with Section 17850) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 5.8. PUBLIC BENEFITS

17850. It is the intent of the Legislature in enacting this part to affirm the ability of counties, cities, and hospital districts to provide health care

and other services to all residents, if any of these entities has decided to do so at its own discretion.

17851. A city, county, city and county, or hospital district may, at its discretion, provide aid, including health care, to persons who, but for Section 411 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 8 U.S.C. Sec. 1621), would meet eligibility requirements for any program of that entity.

CHAPTER 802

An act to amend Section 297.5 of the Family Code, and to amend Sections 17024.5 and 18521 of the Revenue and Taxation Code, relating to taxation.

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) The California Domestic Partner Rights and Responsibilities Act of 2003 created inequality between spouses and registered domestic partners by excluding joint income tax filing from the rights, protections, and responsibilities afforded to registered domestic partners. The California Domestic Partner Rights and Responsibilities Act of 2003 created further inequality by providing that the earned income of registered domestic partners shall not be treated as community property for state income tax purposes, as is done for the earned income of spouses, notwithstanding that domestic partners assume full financial responsibility for each other as do spouses. These inequalities have remained despite the technical amendments to the domestic partnership laws enacted in 2004 by Assembly Bill 2580, and other intervening changes in the laws governing the state's registered domestic partnerships.

(b) It is the policy of the state to provide all caring and committed couples, regardless of their sex or sexual orientation, the opportunity to obtain essential rights and to assume corresponding responsibilities, and to further the state's compelling interests in promoting stable and lasting family relationships in this state by affording comprehensive protections under state law.

(c) The differential treatment of registered domestic partners with respect to state income taxes discriminates on the bases of sex and sexual

orientation, imposes unfair tax burdens on many registered domestic partners, and is inconsistent with the policy underlying the domestic partnership laws of reducing discrimination on the bases of sex and sexual orientation in a manner consistent with the requirements of the California Constitution.

(d) It is the intent of the Legislature in enacting this bill that the inconsistency between registered domestic partners and spouses with respect to state income taxation be removed, registered domestic partners be permitted to file their income tax returns jointly or separately on terms similar to those governing spouses, and the earned income of registered domestic partners be recognized appropriately as community property. As a result of this bill, registered domestic partners who file separate income tax returns each shall report one-half of the combined income earned by both domestic partners, as spouses do, rather than their respective individual incomes for the taxable year.

SEC. 2. Section 297.5 of the Family Code is amended to read:

297.5. (a) Registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.

(b) Former registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon former spouses.

(c) A surviving registered domestic partner, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.

(e) To the extent that provisions of California law adopt, refer to, or rely upon, provisions of federal law in a way that otherwise would cause registered domestic partners to be treated differently than spouses,

registered domestic partners shall be treated by California law as if federal law recognized a domestic partnership in the same manner as California law.

(f) Registered domestic partners shall have the same rights regarding nondiscrimination as those provided to spouses.

(g) No public agency in this state may discriminate against any person or couple on the ground that the person is a registered domestic partner rather than a spouse or that the couple are registered domestic partners rather than spouses, except that nothing in this section applies to modify eligibility for long-term care plans pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

(h) This act does not preclude any state or local agency from exercising its regulatory authority to implement statutes providing rights to, or imposing responsibilities upon, domestic partners.

(i) This section does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.

(j) Where necessary to implement the rights of registered domestic partners under this act, gender-specific terms referring to spouses shall be construed to include domestic partners.

(k) (1) For purposes of the statutes, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, and benefits, and the responsibilities, obligations, and duties of registered domestic partners in this state, as effectuated by this section, with respect to community property, mutual responsibility for debts to third parties, the right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership, and other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the state.

(2) Notwithstanding paragraph (1), for domestic partnerships registered with the state before January 1, 2005, an agreement between the domestic partners that the partners intend to be governed by the requirements set forth in Sections 1600 to 1620, inclusive, and which complies with those sections, except for the agreement's effective date, shall be enforceable as provided by Sections 1600 to 1620, inclusive, if that agreement was fully executed and in force as of June 30, 2005.

SEC. 3. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal

Revenue Code of 1986," for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996	January 1, 1993
(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997	January 1, 1997
(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001	January 1, 1998

(M) For taxable years beginning on or after January 1, 2002, and on or before December 31, 2004	January 1, 2001
(N) For taxable years beginning on or after January 1, 2005	January 1, 2005

(2) (A) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(B) In the case where Section 901 of the Economic Growth and Tax Relief Act of 2001 (Public Law 107-16) applies to any provision of the Internal Revenue Code that is incorporated for purposes of this part, Section 901 of the Economic Growth and Tax Relief Act of 2001 shall apply for purposes of this part in the same manner and to the same taxable years as it applies for federal income tax purposes.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a reference to any of the following is not applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by "the secretary" shall be applicable as regulations under this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) (A) Except as provided in subparagraph (B), in order to obtain treatment other than that elected for federal purposes, a separate election

shall be filed at the time and in the manner required by the Franchise Tax Board.

(B) (i) If a taxpayer makes a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to the tax imposed under this part or Part 11 (commencing with Section 23001), that taxpayer is deemed to have made the same election for purposes of the tax imposed by this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), as applicable, and that taxpayer may not make a separate election for California tax purposes unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 11 (commencing with Section 23001), that taxpayer may not make a separate California election for purposes of this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or the regulation issued by "the secretary" authorizing an election for federal income tax purposes apply for purposes of this part, Part 10.2 (commencing with Section 18401) or Part 11 (commencing with Section 23001).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) (A) Except as provided in subparagraph (B), references to "adjusted gross income" for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown

as adjusted gross income on the federal tax return for the same taxable year.

(B) In the case of registered domestic partners filing a joint return under Section 18521, adjusted gross income, for the purposes of computing limitations based upon adjusted gross income, shall mean the total of the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year of each registered domestic partner.

(3) Any reference to "subtitle" or "chapter" shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 4. Section 18521 of the Revenue and Taxation Code is amended to read:

18521. (a) (1) Except as otherwise provided in this section, an individual shall use the same filing status that he or she used on his or her federal income tax return filed for the same taxable year.

(2) If the Franchise Tax Board determines that the filing status used on the taxpayer's federal income tax return was incorrect, the Franchise Tax Board may, under Section 19033 (relating to deficiency assessments), revise the return to reflect a correct filing status.

(3) If either spouse or domestic partner was a nonresident for any portion of the taxable year, and the couple files a joint federal income tax return, the spouses or domestic partners shall be required to file a joint nonresident return.

(b) In the case of an individual who is not required to file a federal income tax return for the taxable year, that individual may use any filing status on the return required under this part that he or she would be eligible to use on a federal income tax return for the same taxable year if a federal income tax return was required.

(c) Notwithstanding subdivision (a), spouses and registered domestic partners, as described in Section 297 of the Family Code, who are registered as domestic partners as of the close of the taxable year, may

file separate returns under this part if either spouse or registered domestic partner was either of the following during the taxable year:

(1) An active member of the Armed Forces or any auxiliary branch thereof.

(2) A nonresident for the entire taxable year who had no income from a California source.

(d) Notwithstanding subdivision (a), registered domestic partners, as described in Section 297 of the Family Code, who are registered as domestic partners as of the close of the taxable year and who are prohibited under federal law from filing a joint federal income tax return, shall either file a joint state income tax return or separate state income tax returns by applying the standards applicable to spouses who file separately pursuant to Section 6013 of the Internal Revenue Code. A separate return filed by a domestic partner of a registered domestic partnership shall be subject to the same conditions and limitations applicable to the separate return of a spouse.

(e) Except for taxpayers described in subdivision (c), for any taxable year with respect to which a joint return has been filed, a separate return shall not be made by either spouse or domestic partner after the period for either to file a separate return has expired.

(f) No joint return shall be made if the spouses or the domestic partners have different taxable years; except that if their taxable years begin on the same day and end on different days because of the death of either or both, then a joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries or the surviving domestic partner enters into a new domestic partnership before the close of his or her taxable year, or if the taxable year of either spouse or domestic partner is a fractional part of a year under Section 443(a) of the Internal Revenue Code.

(g) In the case of the death of one spouse or domestic partner or both spouses or both domestic partners the joint return with respect to the decedent may be made only by the decedent's executor or administrator; except that, in the case of the death of one spouse or domestic partner, the joint return may be made by the surviving spouse or surviving domestic partner with respect to both that spouse or domestic partner and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse or surviving domestic partner. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse or surviving domestic partner, the executor or administrator may disaffirm the joint return by making, within one year after the last day prescribed by law

for filing the return of the surviving spouse or surviving domestic partner, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his or her separate return.

CHAPTER 803

An act to amend Section 13159.1 of the Health and Safety Code, relating to public safety.

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

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

SECTION 1. Section 13159.1 of the Health and Safety Code is amended to read:

13159.1. (a) The State Fire Marshal shall establish additional training standards that include the criteria for curriculum content recommended by the Emergency Response Training Advisory Committee established pursuant to Section 8588.10 of the Government Code, involving the responsibilities of first responders to terrorism incidents and to address the training needs of those identified as first responders.

(b) The State Fire Marshal shall contract with the California Firefighter Joint Apprenticeship Program for the development of curriculum content criteria specified in subdivision (a).

(c) Every paid and volunteer firefighter assigned to field duties in a state or local fire department or fire protection or firefighting agency may receive the appropriate training described in this section. Pertinent training previously completed by any jurisdiction's firefighters and meeting the training standards of this section may be submitted to the State Fire Marshal to assess its content and determine whether it meets the training requirements prescribed by the State Fire Marshal.

SEC. 2. Section 13159.1 of the Health and Safety Code shall be implemented only when federal funds are received for the purposes of that subdivision.

CHAPTER 804

An act to add Section 66721.7 to the Education Code, relating to public postsecondary education.

[Approved by Governor September 30, 2006. Filed with
Secretary of State September 30, 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 California Master Plan and supporting statutes place the utmost importance on the effective transfer of community college students to the University of California (UC) and the California State University (CSU) as a means of providing access to a baccalaureate degree.

(b) In 2002, UC enrolled nearly 13,000 transfer students from community colleges.

(c) Nearly one-third of all students who earn a baccalaureate degree at UC began their college careers at a community college.

(d) The effective use of state and student time and resources would be maximized by students who accrue fewer unrequired units in earning their degrees.

(e) Additional access to community colleges and UC will be created by higher graduation rates and fewer nonessential units taken.

(f) The State Budget situation makes it urgent to streamline the path of the transfer student to the baccalaureate degree.

(g) Current sources of information regarding campus-specific major preparation do not allow for clear identification and comparison among options by prospective transfer students.

SEC. 2. Section 66721.7 is added to the Education Code, to read:

66721.7. (a) It is the intent of the Legislature to ensure that community college students who wish to earn the baccalaureate degree at the University of California (UC) are provided with clear and effective directions that specify curricular paths to this degree.

(b) This section shall not be construed to limit in any way the ability of students to gain admission through alternative paths to transfer, such as the Intersegmental General Education Transfer Curriculum (IGETC) or any other means.

(c) The University of California is requested to address deficiencies in the articulation of major preparation courses between the California Community Colleges and the various UC campuses to make it easier for prospective transfer students to identify which community college courses meet major preparation requirements across the various campuses of the university.

(d) The University of California is requested to identify commonalities and differences in similar majors across all UC campuses in order to accomplish all of the following:

(1) To provide students with general descriptions of each major.

(2) To identify lower division degree requirements that are common across UC campuses.

(3) To identify additional academic requirements at each UC campus.

(4) To describe additional criteria that students must achieve to be admitted at the various UC campuses.

(e) (1) When four or more UC campuses that award undergraduate degrees have articulated specific courses and course sequences of the California Community Colleges for common requirements in similar majors, the remaining UC campuses that offer undergraduate degrees are requested to also articulate these specific community college courses and course sequences. The Legislature recognizes that UC may adopt provisions allowing individual UC campuses to opt out of this articulation process on a case-by-case basis; however, these provisions should be infrequently used. The Academic Senate of the University of California is requested to notify the California Community Colleges when an articulation request is denied, and to provide information that will enable the California Community Colleges to achieve course comparability with UC.

(2) For at least the 20 most high-demand undergraduate majors, and with the ultimate goal of including all majors for which it is feasible, UC is requested to specify lower division transfer paths clearly identifying commonalities, as well as differences, on a comparative basis across UC campuses offering specific major programs. The Academic Senate of the University of California is requested to review the existing differences in lower division major preparation in each major across UC campuses, recognizing that one goal of these requirements should be to achieve similarity to the greatest degree that is academically appropriate.

(3) The University of California is requested to include all of the following in the systemwide lower division transfer paths for the high-demand baccalaureate major degree programs:

(A) Lower division general education requirements for the university.

(B) Lower division major preparation requirements that are common across undergraduate campuses.

(C) Additional lower division degree requirements that are unique to an individual campus.

(D) Elective units, as appropriate.

(E) Additional criteria, such as grade point averages and minimum grades, to ensure that students are competitive in selective majors.

(4) The systemwide lower division transfer paths shall be specified in sufficient manner and detail so that existing and future community college lower division courses may be articulated, according to the usual procedures, to the corresponding UC courses or course descriptions.

(f) (1) The University of California is requested to, and the Chancellor of the California Community Colleges shall, in consultation with the Academic Senate of the California Community Colleges, on or before January 1, 2008, facilitate the articulation of those lower division, baccalaureate-level courses at each campus of the California Community Colleges that meet the lower division transfer path requirements for each major specified by UC in paragraph (1) of subdivision (e).

(2) The University of California is requested to annually review, and update as appropriate, the lower division transfer paths and articulation to ensure that they reflect current UC campus degree requirements and community college curricula, and share the results of that review with the Chancellor of the California Community Colleges.

(g) As allowed by enrollment demand and available space, UC is requested to develop transfer admission agreement programs for students at each campus of the California Community Colleges who demonstrate the intent to meet the requirements of this section, including the declaration of a major and identification of a choice of a destination campus. The transfer admission agreement shall guarantee admission to the campus and major identified in the agreement and transfer of all units specified in the agreement, subject to the student's successful completion of the requirements of the agreement. It is the intent of the Legislature that the transfer admission agreements entered into under this section be made available to students early in their academic coursework. However, nothing in this section shall be construed to preclude or limit the development or issuance of transfer admission agreements for students at any appropriate time up to the point of application.

(h) A path to transfer, as specified in this section, shall be available to any community college student who desires to transfer to UC, and shall not be limited to students who secure a transfer admission agreement as specified in subdivision (g). A student who successfully completes a path to transfer, but who does not secure a transfer admission agreement, shall be guaranteed the transferability and degree applicability for all units that the student has earned pursuant to the path to transfer. However, nothing in this section shall be construed to guarantee admission to UC, or to a specific UC campus, for a student who has not secured a transfer admission agreement.

(i) The University of California is requested to, and the California Community Colleges shall, on a three-year periodic cycle, jointly conduct a review of a random representative sample of transcripts of students who have transferred to UC and of students preparing for transfer to

determine the effectiveness of the transfer preparation pathways referenced in this section.

CHAPTER 805

An act to amend Sections 1626 and 1632 of, and to add Sections 1634.1 and 1634.2 to, the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

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

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

SECTION 1. Section 1626 of the Business and Professions Code is amended to read:

1626. It is unlawful for any person to engage in the practice of dentistry in the state, either privately or as an employee of a governmental agency or political subdivision, unless the person has a valid, unexpired license or special permit from the board.

The following practices, acts and operations, however, are exempt from the operation of this chapter:

(a) The practice of oral surgery by a physician and surgeon licensed under the Medical Practice Act.

(b) The operations, in dental schools approved by the board, of bona fide students of dentistry or dental hygiene in the school's clinical departments or laboratories or in a dental extension program approved by the board or in an advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association or a national accrediting body approved by the board.

(c) The practice of dentistry by licensed dentists of other states or countries while appearing and operating as bona fide clinicians or instructors in dental colleges approved by the Dental Board of California.

(d) The practice of dentistry by licensed dentists of other states or countries in conducting or making a clinical demonstration before any bona fide dental or medical society, association, or convention; provided, however, the consent of the Dental Board of California to the making and conducting of the clinical demonstration shall be first had and obtained.

(e) The construction, making, verification of shade taking, alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances, or orthodontic appliances, when the casts or impressions for this work

have been made or taken by a licensed dentist, but a written authorization signed by a licensed dentist shall accompany the order for the work or it shall be performed in the office of a licensed dentist under his or her supervision. The burden of proving written authorization or direct supervision is upon the person charged with the violation of this chapter.

It is unlawful for any person acting under the exemption of this subdivision to represent or hold out to the public in any manner that he or she will perform or render any of the services exempted by this subdivision that are rendered or performed under the provisions of this chapter by a licensed dentist, including the construction, making, alteration or repairing of dental prosthetic or orthodontic appliances.

(f) The manufacture or sale of wholesale dental supplies.

(g) The practice of dentistry or dental hygiene by applicants during a licensing examination conducted in this state by the licensing agency of another state which does not have a dental school; provided, however, that the consent of the board to the conducting of the examination shall first have been obtained and that the examination shall be conducted in a dental college accredited by the board.

(h) The practice by personnel of the Air Force, Army, Coast Guard, or Navy or employees of the United States Public Health Service, Veterans' Administration, or Bureau of Indian Affairs when engaged in the discharge of official duties.

SEC. 2. Section 1632 of the Business and Professions Code is amended to read:

1632. (a) The board shall require each applicant to successfully complete the written examinations of the National Board Dental Examination of the Joint Commission on National Dental Examinations.

(b) The board shall require each applicant to successfully complete an examination in California law and ethics developed and administered by the board. The board shall provide a separate application for this examination. Applicants shall submit this application to the board in order to take this examination. In addition to the aforementioned application, the only other requirement for taking this examination shall be certification from the dean of the qualifying dental school attended by the applicant that the applicant has graduated, or will graduate, or is expected to graduate. Applicants who submit completed applications and certification from the dean at least 15 days prior to a scheduled examination shall be scheduled to take the examination. Successful results of the examination shall, as established by board regulation, remain valid for two years from the date that the applicant is notified of having passed the examination.

(c) Except as otherwise provided in Section 1632.5, the board shall require each applicant to have taken and received a passing score on one of the following:

(1) A clinical and written examination developed and administered by the board.

(2) A clinical and written examination administered by the Western Regional Examining Board, which board shall determine the passing score for that examination.

(d) Notwithstanding subdivision (b) of Section 1628, the board is authorized to do either of the following:

(1) Approve an application for examination from and to examine an applicant who is enrolled in but has not yet graduated from a reputable dental school approved by the board.

(2) Accept the results of an examination described in paragraph (2) of subdivision (c) submitted by an applicant who was enrolled in but had not graduated from a reputable dental school approved by the board at the time the examination was administered.

In either case, the board shall require the dean of that school or his or her delegate to furnish satisfactory proof that the applicant will graduate within one year of the date the examination was administered.

SEC. 3. Section 1634.1 is added to the Business and Professions Code, to read:

1634.1. Notwithstanding Section 1634, the board may grant a license to practice dentistry to an applicant who submits all of the following to the board:

(a) A completed application form and all fees required by the board.

(b) Satisfactory evidence of having graduated from a dental school approved by the board or by the Commission on Dental Accreditation of the American Dental Association.

(c) Satisfactory evidence of having completed a clinically based advanced education program in general dentistry or an advanced education program in general practice residency that is, at minimum, one year in duration and is accredited by either the Commission on Dental Accreditation of the American Dental Association or a national accrediting body approved by the board.The advanced education program shall include a certification of clinical residency program completion approved by the board, to be completed upon the resident's successful completion of the program in order to evaluate his or her competence to practice dentistry in the state.

(d) Satisfactory evidence of having successfully completed the written examinations of the National Board Dental Examination of the Joint Commission on National Dental Examinations.

(e) Satisfactory evidence of having successfully completed an examination in California law and ethics.

(f) Proof that the applicant has not failed the examination for licensure to practice dentistry under this chapter within five years prior to the date of his or her application for a license under this chapter.

SEC. 4. Section 1634.2 is added to the Business and Professions Code, to read:

1634.2. (a) An advanced education program's compliance with subdivision (c) of Section 1634.1 shall be regularly reviewed by the department pursuant to Section 139.

(b) An advanced education program described in subdivision (c) of Section 1634.1 shall meet the requirements of subdivision (a) of Section 12944 of the Government Code.

(c) The clinical residency program completion certification required by subdivision (c) of Section 1634.1 shall include a list of core competencies commensurate to those found in the board's examinations. The board, together with the department's Office of Examination Resources, shall ensure the alignment of the competencies stated in the clinical residency program completion certification with the board's current occupational analysis. The board shall implement use of the clinical residency program completion certification form and use of the core competency list through the adoption of emergency regulations by January 1, 2008.

(d) As part of its next scheduled review after January 1, 2007, by the Joint Committee on Boards, Commissions and Consumer Protection, the board shall report to that committee and to the department the number of complaints received for those dentists who have obtained licensure by passing the state clinical examination and for those dentists who have obtained licensure through an advanced education program. The report shall also contain tracking information on these complaints and their disposition. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 5. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the State Dentistry Fund to the Department of Consumer Affairs for the purposes of subdivision (c) of Section 1634.1 for the 2006–07 fiscal year.

CHAPTER 806

An act to amend Sections 7620, 7630, 7633, 7825, and 8700 of, and to add Sections 7606 and 8613.5 to, the Family Code, relating to adoption.

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

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

SECTION 1. Section 7606 is added to the Family Code, to read:

7606. As used in this part, the following definitions shall apply:

(a) "Assisted reproduction" means conception by any means other than sexual intercourse.

(b) "Assisted reproduction agreement" means a written contract that includes a person who intends to be the legal parent of a child or children born through assisted reproduction and that defines the terms of the relationship between the parties to the contract.

SEC. 2. Section 7620 of the Family Code is amended to read:

7620. (a) A person who has sexual intercourse or causes conception with the intent to become a legal parent by assisted reproduction in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may have been conceived by that act of intercourse or assisted reproduction.

(b) An action under this part shall be brought in one of the following:

(1) The county in which the child resides or is found.

(2) The county in which a licensed California adoption agency maintains an office if that agency brings the action.

(3) If the father is deceased, the county in which proceedings for probate of the estate of the father of the child have been or could be commenced.

SEC. 3. Section 7630 of the Family Code is amended to read:

7630. (a) A child, the child's natural mother, a man presumed to be the child's father under subdivision (a), (b), or (c) of Section 7611, an adoption agency to whom the child has been relinquished or a prospective adoptive parent of the child may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under subdivision (a), (b), or (c) of Section 7611.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under subdivision (a), (b), or (c) of Section 7611 only if the action is brought within a reasonable time after obtaining

knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under subdivision (d) or (f) of Section 7611.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7611 or whose presumed father is deceased may be brought by the child or personal representative of the child, the Department of Child Support Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) (1) If a proceeding has been filed under Chapter 2 (commencing with Section 7820) of Part 4, an action under subdivision (a) or (b) shall be consolidated with that proceeding. The parental rights of the presumed father shall be determined as set forth in Sections 7820 through 7829, inclusive.

(2) If a proceeding pursuant to Section 7662 has been filed under Chapter 5 (commencing with Section 7660), an action under subdivision (c) shall be consolidated with that proceeding. The parental rights of the alleged natural father shall be determined as set forth in Section 7664.

(3) The consolidated action under paragraph (1) or (2) shall be heard in the court in which the proceeding is filed, unless the court finds, by clear and convincing evidence, that transferring the action to the other court poses a substantial hardship to the petitioner. Mere inconvenience does not constitute a sufficient basis for a finding of substantial hardship. If the court determines there is a substantial hardship, the consolidated action shall be heard in the court in which the paternity action is filed.

(e) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

SEC. 4. Section 7633 of the Family Code is amended to read:

7633. An action under this chapter may be brought, an order or judgment may be entered before the birth of the child, and enforcement of that order or judgment shall be stayed until the birth of the child.

SEC. 5. Section 7825 of the Family Code is amended to read:

7825. (a) A proceeding under this part may be brought where both of the following requirements are satisfied:

(1) The child is one whose parent or parents are convicted of a felony.

(2) The facts of the crime of which the parent or parents were convicted are of such a nature so as to prove the unfitness of the parent

or parents to have the future custody and control of the child. In making a determination pursuant to this section, the court may consider the parent's criminal record prior to the felony conviction to the extent that the criminal record demonstrates a pattern of behavior substantially related to the welfare of the child or the parent's ability to exercise custody and control regarding his or her child.

(b) The mother of a child may bring a proceeding under this part against the father of the child, where the child was conceived as a result of an act in violation of Section 261 of the Penal Code, and where the father was convicted of that violation. For purposes of this subdivision, there is a conclusive presumption that the father is unfit to have custody or control of the child.

SEC. 6. Section 8613.5 is added to the Family Code, to read:

8613.5. (a) (1) If it is impossible or impracticable for either prospective adoptive parent to make an appearance in person, and the circumstances are established by clear and convincing documentary evidence, the court may, in its discretion, waive the personal appearance of the prospective adoptive parent. The appearance may be made for the prospective adoptive parent by counsel, commissioned and empowered in writing for that purpose. The power of attorney may be incorporated in the adoption petition.

(2) For purposes of this section, if the circumstances that make an appearance in person by a prospective adoptive parent impossible or impracticable are temporary in nature or of a short duration, the court shall not waive the personal appearance of that prospective adoptive parent.

(b) If the prospective adoptive parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the Civil Code.

(c) If the prospective adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the prospective adoptive parent, other interested person, or witness to be made upon deposition, as it deems necessary. The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner.

(d) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the clerk of the court.

(e) The provisions of this section permitting an appearance by counsel are equally applicable to the spouse of a prospective adoptive parent who resides with the prospective adoptive parent outside this state.

(f) If, pursuant to this section, neither prospective adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so through counsel.

(g) If none of the parties appears, the court may not make an order of adoption until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or 9001.

SEC. 7. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A relinquishing parent who is a minor has the right to relinquish his or her child for adoption to the department or a licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a relinquishing parent resides outside this state and the child is being cared for and is or will be placed for adoption by the department or a licensed adoption agency, the relinquishing parent may relinquish the child to the department or agency by a written statement signed by the relinquishing parent before a notary on a form prescribed by the department, and previously signed by an authorized official of the department or agency, that signifies the willingness of the department or agency to accept the relinquishment.

(d) If a relinquishing parent and child reside outside this state and the child will be cared for and will be placed for adoption by the department or a licensed adoption agency, the relinquishing parent may relinquish the child to the department or agency by a written statement signed by the relinquishing parent, after that parent has satisfied the following requirements:

(1) Prior to signing the relinquishment, the relinquishing parent shall have received, from a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence, the same counseling and advisement services as if the relinquishing parent resided in this state.

(2) The relinquishment shall be signed before a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence whenever possible or before a licensed social worker on a form prescribed by the

department, and previously signed by an authorized official of the department or agency, that signifies the willingness of the department or agency to accept the relinquishment.

(e) (1) The relinquishment authorized by this section has no effect until a certified copy is sent to, and filed with, the department. The licensed adoption agency shall send that copy by certified mail, return receipt requested, or by overnight courier or messenger, with proof of delivery, to the department no earlier than the end of the business day following the signing thereof. The relinquishment shall be final 10 business days after receipt of the filing by the department, unless any of the following apply:

(A) The department sends written acknowledgment of receipt of the relinquishment prior to the expiration of that 10-day period, at which time the relinquishment shall be final.

(B) A longer period of time is necessary due to a pending court action or some other cause beyond control of the department.

(2) After the relinquishment is final, it may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

(f) The relinquishing parent may name in the relinquishment the person or persons with whom he or she intends that placement of the child for adoption be made by the department or licensed adoption agency.

(g) Notwithstanding subdivision (e), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

(h) The relinquishing parent has 30 days from the date on which the notice described in subdivision (g) was mailed to rescind the relinquishment.

(1) If the relinquishing parent requests rescission during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment.

(2) If the relinquishing parent does not request rescission during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child.

(3) If the relinquishing parent and the department or licensed adoption agency wish to identify a different person or persons during the 30-day

period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(i) If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department or a licensed adoption agency for the purpose of adoption, the department or agency accepting the relinquishment shall provide written notice of the relinquishment within five court days to all of the following:

(1) The juvenile court having jurisdiction of the child.

(2) The child's attorney, if any.

(3) The relinquishing parent's attorney, if any.

(j) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (g) and (h).

(k) The department shall adopt regulations to administer the provisions of this section.

CHAPTER 807

An act to amend Section 12785 of, and to repeal and add Section 12759 of, the Government Code, relating to the Community Services Block Grant Program.

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

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

SECTION 1. Section 12759 of the Government Code is repealed.

SEC. 2. Section 12759 is added to the Government Code, to read:

12759. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Agency" means a community action agency, limited purpose agency, or other organization that qualifies as an eligible entity pursuant to this chapter and that receives financial assistance from the total program funds, as defined in paragraph (2).

(2) "Total program funds" means the federal Community Services Block Grant funds that remain after the amount reserved pursuant to subdivision (b) is set aside.

(3) "Uncapped program," means a program that receives Community Services Block Grant funds but is not designated as a community action agency.

(b) The director shall allocate federal Community Services Block Grant funds consistent with the following principles:

(1) The historic distinction between minimum and nonminimum funded agencies and other eligible entities shall be minimized and eventually eliminated.

(2) After the target allocation point as set forth in subdivision (c) is achieved, allocation adjustments shall treat all agencies equitably and without regard to minimum funding levels.

(3) If federal Community Services Block Grant funding is reduced or increased, funds shall be allocated so as to avoid abrupt changes in current allocations.

(c) For each fiscal year, the director shall first reserve from the annual federal Community Services Block Grant all amounts that federal or state law allows or requires to be set aside for statewide activities consistent with the purposes of the Community Services Block Grant, including, but not limited to, training, technical assistance, monitoring, coordination, and administration.

(d) (1) The goal of this section is to achieve a target allocation point for each agency. The target allocation for each agency, except uncapped program agencies, shall be either two hundred fifty thousand dollars ($250,000) or the amount the agency received from the 2005 federal Community Services Block Grant award, whichever is greater. The target allocation point for each uncapped program shall be the amount it received from the 2005 federal Community Services Block Grant award. An agency with a target allocation point equal to the amount received from the 2005 federal Community Services Block Grant award shall have its target allocation point further adjusted pursuant to paragraph (6).

(2) The director shall first assign an initial base allocation for each agency, except an uncapped program agency, that shall be equal to either one hundred seventy-three thousand five hundred fifty-six dollars ($173,556) or the amount the agency received from the 2005 federal Community Services Block Grant award, whichever is greater. The director shall assign each uncapped program agency an initial base allocation that shall be equal to the amount the agency received from the 2005 federal Community Services Block Grant award even if it is less than one hundred seventy-three thousand five hundred fifty-six dollars ($173,556).

(3) From the 2007 federal Community Services Block Grant, the director shall begin by allocating the initial base allocation to each

agency. If the total program funds available that year are more than the amount required to fulfill the initial base allocation for all agencies, the allocation shall be adjusted pursuant to paragraph (4). If the total program funds available that year are less than the amount required to fulfill the initial base allocation, the allocation shall be adjusted pursuant to paragraph (5).

(4) Commencing with the 2007 federal fiscal year, if there is an increase in total program funds in any federal fiscal year before the target allocation point is achieved, the additional funds shall be allocated as follows:

(A) First, each agency that is not an uncapped program agency whose prior year allocation was less than two hundred fifty thousand dollars ($250,000) shall have its allocation increased until each of those agencies reach the target allocation point of two hundred fifty thousand dollars ($250,000). The allocations to these agencies shall be prioritized initially to the lowest funded agencies to enable their allocations to, as much as the funding increase allows, float up toward the second lowest funded agencies, and then to this collective group of agencies to enable their allocations to float up toward the next lowest funded agencies, and so on until all of these agencies reach the target allocation point of two hundred fifty thousand dollars ($250,000).

(B) Second, once the target allocation point of two hundred fifty thousand dollars ($250,000) is reached pursuant to subparagraph (A), additional funds shall be allocated proportionately among each of the agencies, including uncapped program agencies whose target allocation point equals the amount the agency received from the 2005 federal Community Services Block Grant award, in order to bring its prior year allocation back up to the target allocation point if it was previously reduced pursuant to paragraph (5).

(C) Third, if there are some total program funds remaining during the same federal fiscal year when the target allocation point for all agencies is reached, the remainder shall be allocated to each agency in an amount that bears the same relationship to the total amount of the remainder as the number of persons living in households at or below the poverty level in each agency's respective service area bears to the total number of those persons living in the state, as reported in the most recent available decennial census.

(5) Commencing with the 2007 federal fiscal year, if there is a decrease in total program funds in any fiscal year before the target allocation point is reached, the reduction shall be allocated as follows:

(A) First, the reduction shall be subtracted proportionately from the prior years' allocation of each agency whose initial base allocation was greater than two hundred fifty thousand dollars ($250,000).

(B) Second, no agency shall have its current year allocation fall below the current year allocation for any other agency where the other agency's initial base allocation was less than the first agency's allocation. If the reduction in total program funds is greater than can be absorbed among the agencies whose initial base allocations were greater than two hundred fifty thousand dollars ($250,000), the reductions shall also be applied proportionately among any other agencies necessary to maintain this rule.

(C) Until the target allocation point is reached for all agencies, an agency that is not an uncapped program shall not have its current year allocation fall below one hundred seventy-three thousand five hundred fifty-six dollars ($173,556). At the discretion of the director, federal Community Services Block Grant discretionary funds may be used for this purpose.

(6) If a new decennial census is reported before the target allocation point is achieved, the director shall first adjust the relative allocation among each of those agencies whose initial base allocation was equal to the amount it received from the 2005 federal Community Services Block Grant award by the percentage difference of the number of persons living in households at or below the poverty level in each agency's respective service area as compared to the number of those persons reported in previous decennial census, except that an agency that is not an uncapped agency shall not have the adjustment pursuant to this paragraph reduce its current year allocation below the current year allocations of the lowest funded agencies pursuant to subparagraph (A) of paragraph (4). All allocations made pursuant to paragraphs (4) and (5) shall take this census-based adjustment into account.

(e) (1) Commencing with the first federal fiscal year after the target allocation point is reached, increases and decreases in total program funds for each federal fiscal year shall be proportionately allocated among all agencies relative to the prior year's allocation.

(2) When each decennial census is reported, allocations made pursuant to this subdivision shall also be adjusted by the percentage difference of the number of persons living in households at or below the poverty level in each agency's respective service area as compared to the number of these persons reported in the previous decennial census, except that an agency that is not an uncapped agency shall not have the adjustment pursuant to this subdivision reduce its current year allocation below two hundred fifty thousand dollars ($250,000).

(f) It is the intent of the Legislature that the allocation formula specified in this section not be used as a formula for other funding distributions.

SEC. 3. Section 12785 of the Government Code is amended to read:

12785. All Community Services Block Grant funds made available by the Congress shall be used by the state, together with any state funds as may from time to time be appropriated for this program, and any funds as may be transferred to this program from other federal block grants, in accordance with the annual Budget Act.

No transfer of funds is permitted, under any circumstance, from the California Community Services Block Grant Program to any other block grant or program administered by the state or by the federal government.

If diminished federal appropriations for the Community Services Block Grant result in California's share for any fiscal year being reduced by any amount up to 3.5 percent below the amount of the federal appropriation from the prior year, the director shall use the discretionary fund to proportionately restore Community Services Block Grant grantees and contractors to full funding levels.

If diminished federal appropriations for the Community Services Block Grant result in California's share for any federal fiscal year being reduced by a cumulative amount of 20 percent or more below the amount appropriated in the federal Community Services Block Grant in the 2005 federal fiscal year, the director shall convene the network of agencies receiving grant funds to determine whether changes to the allocation system should be contemplated and referred to the Legislature for consideration.

CHAPTER 808

An act to amend Sections 132610, 132615, 132625, 132645, and 132650 of the Public Utilities Code, relating to transportation.

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

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

SECTION 1. Section 132610 of the Public Utilities Code is amended to read:

132610. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

(1) Acceptance of grants, fees, allocations, and transfers of funds from federal, state, and local agencies, and private entities.

(2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority, provided the authority shall use existing right-of-ways where feasible.

(3) Incurring indebtedness, secured by pledges of revenue available for project completion.

(4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted to the authority. For purposes of this paragraph, "joint development" includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting financial and environmental studies, planning, and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from accepting gifts valued at ten dollars ($10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred

fifty dollars ($250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars ($250) within the preceding 24 months from a party or his or her agent, or from any participant or his or her agent, if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars ($10) or more in value within the 12 months prior to the time the decision was made.

(vi) Board members, alternate members, officers, consultants, and employees shall not be considered financially interested solely by virtue of their holding office or being employed by the authority as well as an appointing authority set forth in subdivision (a) of Section 132615, and they may participate in decisions and agreements regarding the authority and any of the appointing authorities set forth in subdivision (a) of Section 132615. The participation described in this clause shall not constitute a conflict of interest under Section 1090 of the Government Code and shall not constitute an incompatible activity under Section 1126 of the Government Code.

(3) As necessary for final design and construction, completion of a detailed management, implementation, safety, and financial plan for the project and submission of the plan to the Governor, the Legislature, and the commission.

(c) The authority shall make reasonable progress, as determined by the commission, in the final design and construction of the project.

(d) The duties and responsibilities imposed by this section shall be contingent upon allocation of federal and local funds by the LACMTA for these purposes.

SEC. 2. Section 132615 of the Public Utilities Code is amended to read:

132615. (a) The authority shall be governed by a board consisting of seven voting members who shall be appointed as follows:

(1) Two members shall be appointed by the City Councils of the Cities of Santa Monica and Culver City with each city council appointing one member by a majority vote of the membership of that city council.

(2) Two members shall be appointed by the Los Angeles County Board of Supervisors.

(3) One member shall be appointed by the LACMTA.

(4) Two members shall be appointed by the City Council of the City of Los Angeles by a majority vote of its membership.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) Each appointing authority shall also appoint an alternate member to serve in a member's absence. If the position of a voting member becomes vacant, the alternate member shall serve until the position is filled as required pursuant to subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Four members of the board shall constitute a quorum.

(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars ($150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars ($600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

(h) The Chief Executive Officer of the LACMTA shall serve on the board as an ex officio, nonvoting member.

(i) Members appointed to the board may include members or employees of the appointing authorities set forth in subdivision (a).

SEC. 3. Section 132625 of the Public Utilities Code is amended to read:

132625. The LACMTA shall identify and expeditiously enter into an agreement or agreements with the authority to do all of the following:

(a) Hold in trust with the authority all real and personal property, and any other assets accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project, unless otherwise agreed upon by the LACMTA and the authority.

(b) Outline the design review, construction, and testing process that acknowledges LACMTA's direct role in the review of the project to

ensure the final project will be compatible, functionally connected, and operative within LACMTA's existing metro rail system.

(c) Describe the various funding sources and the obligations of the authority to assist LACMTA obtain federal, state, and local funds for the project, and the authority's obligations and duties upon receipt of the funds necessary to construct the project.

(d) Describe all financial elements of the project, and the budget approved for the project.

SEC. 4. Section 132645 of the Public Utilities Code is amended to read:

132645. The authority shall not encumber the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project. The design and construction to be administered by the authority does not include rolling stock and fare collection equipment, which is a component of the operation of the project and shall be provided and administered by the LACMTA.

SEC. 5. Section 132650 of the Public Utilities Code is amended to read:

132650. The authority shall be dissolved upon completion of construction of the light rail project. The LACMTA shall assume responsibility for operating the project upon completion of the project or any of its phases.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 7. The provision of this act, enacted at the 2005–06 Regular Session, are declaratory of existing law as they pertain to conflicts of interest, incompatible activities, and the ability of board members, alternate members, officers, and employees to participate in decisions and agreements regarding the Exposition Metro Line Construction Authority and any of the appointing authorities set forth in subdivision (a) of Section 132615 of the Public Utilities Code.

CHAPTER 809

An act to amend Section 8919 of the Family Code, and to amend Section 102635 of the Health and Safety Code, relating to intercountry adoptions.

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

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

SECTION 1. Section 8919 of the Family Code is amended to read:

8919. (a) Each state resident who adopts a child through an intercountry adoption that is finalized in a foreign country shall readopt the child in this state if it is required by the Department of Homeland Security. Except as provided in subdivision (c), the readoption shall include, but is not limited to, at least one postplacement in-home visit, the filing of the adoption petition, the intercountry adoption court report, accounting reports, the home study report, and the final adoption order. If the adoptive parents have already competed a home study as part of their adoption process, a copy of that study shall be submitted in lieu of a second home study. No readoption order shall be granted unless the court receives a copy of the home study report previously completed for the international finalized adoption by an adoption agency authorized to provide intercountry adoption services pursuant to Section 8900. The court shall consider the postplacement visit or visits and the previously completed home study when deciding whether to grant or deny the petition for readoption.

(b) Each state resident who adopts a child through an intercountry adoption that is finalized in a foreign country may readopt the child in this state. Except as provided in subdivision (c), the readoption shall meet the standards described in subdivision (a).

(c) (1) A state resident who adopts a child through an intercountry adoption that is finalized in a foreign country with adoption standards that meet or exceed those of this state, as certified by the Department of Social Services, may readopt the child in this state according to this subdivision. The readoption shall include one postplacement in-home visit and the final adoption order.

(2) The petition to readopt may be granted if all of the following apply:

(A) The adoption was finalized in accordance with the laws of the foreign country.

(B) The resident has filed with the petition a copy of both of the following:

(i) The decree, order, or certificate of adoption that evidences finalization of the adoption in the foreign country.

(ii) The child's birth certificate and visa.

(C) A certified translation is included of all documents described in this paragraph that are not in English.

(3) If the court denies a petition for readoption, the court shall summarize its reasons for the denial on the record.

(d) The Department of Social Services shall certify whether the adoption standards in the following countries meet or exceed those of this state:

(1) China
(2) Guatemala
(3) Kazakhstan
(4) Russia
(5) South Korea

(e) In addition to the requirement or option of the readoption process set forth in this section, each state resident who adopts a child through an intercountry adoption which is finalized in a foreign country may obtain a birth certificate in the State of California in accordance with the provisions of Section 102635 or 103450 of the Health and Safety Code.

SEC. 2. Section 102635 of the Health and Safety Code is amended to read:

102635. A new birth certificate shall be established by the State Registrar upon receipt of either of the following:

(a) A report of adoption from any court of record that has jurisdiction of the child in this state, another state, the District of Columbia, in any territory of the United States, or in any foreign country, for any child born in California and whose certificate of birth is on file in the office of the State Registrar.

(b) A readoption order issued pursuant to Section 8919 of the Family Code.

CHAPTER 810

An act to amend Section 17462 of the Education Code, relating to school property.

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

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

SECTION 1. Section 17462 of the Education Code is amended to read:

17462. (a) The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district

property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds from the sale or lease with option to purchase may be deposited in the general fund of the district if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the ten-year period following the sale or lease with option to purchase, and the district has no major deferred maintenance requirements. Proceeds from the sale or lease with option to purchase of school district property shall be used for one-time expenditures, and may not be used for ongoing expenditures including, but not limited to, salaries and other general operating expenses.

(b) The proceeds may also be deposited into a special reserve fund for capital outlay, for costs of maintenance of school district property that the governing board determines will not recur within a five-year period, or for the future maintenance and renovation of schoolsites if the district governing board and the State Allocation Board have determined that the district has no anticipated need for schoolsites or building construction or major deferred maintenance projects for a ten-year period following the sale or lease with option to purchase. Proceeds deposited in the special reserve fund shall not be available for general operating expenses as provided in Section 42842.

(c) The State Allocation Board, in consultation with the department, shall adopt regulations that govern the use of proceeds pursuant to this section for one-time expenditures and define ongoing expenditures for purposes of subdivision (a).

(d) Notwithstanding a determination by the State Allocation Board pursuant to subdivision (a) that a school district has no anticipated need for additional sites or building construction for the ten-year period following the sale or lease with option to purchase of surplus school property, the district may apply for new construction or modernization funding pursuant to this chapter if both of the following conditions are satisfied:

(1) Five years have elapsed since the date upon which the sale or lease with option to purchase was executed.

(2) The State Allocation Board determines that the district has demonstrated enrollment growth or a need for additional sites or building construction that the district could not have easily anticipated at the time the board made its original determination that the district had no

anticipated need for the ten-year period following the sale or lease with option to purchase.

CHAPTER 811

An act to add and repeal Section 679 of the Unemployment Insurance Code, relating to unemployment insurance.

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

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

SECTION 1. Section 679 is added to the Unemployment Insurance Code, to read:

679. (a) Notwithstanding Sections 606.5, 621, and 678, for the purposes of this code, "employer" means any employing unit that is a motion picture payroll services company who pays and controls the payment of wages of a motion picture production worker for services either to a motion picture production company or to an allied motion picture services company. The motion picture payroll services company must also have filed a timely statement of its intent to be the employer of motion picture production workers pursuant to subdivision (b).

(b) (1) Any employing unit meeting the requirements of a motion picture payroll services company, as defined by this section, that intends to be treated as an employer of motion picture production workers pursuant to subdivision (a) shall file a statement with the department that declares its intent to be the employer of motion picture production workers, pursuant to this section, within 15 days after first paying wages to the workers. The statement shall include identification of all affiliated entities as defined by this section.

(2) Any employing unit operating as a motion picture payroll services company as of January 1, 2007, that intends to be treated as an employer of motion picture production workers pursuant to this section, shall file a statement with the department that declares its intent to be the employer of motion picture production workers, pursuant to this section, by January 15, 2007. The statement shall include identification of all affiliated entities as defined by this section.

(3) Any motion picture payroll company that quits business shall:

(A) Within 10 days of quitting business:

(i) File with the director, a final return and report of wages of its workers, as required by Section 1116.

(ii) File all statements required by this subdivision.

(B) Within 30 days of quitting business, notify the motion picture production companies and allied motion picture services companies, with respect to which they have been treated as the employer of the motion picture production workers, of its intent to quit business.

(4) The director may prevent a motion picture payroll services company that fails to file a timely statement, as required by this section, from being treated as an employer of motion picture production workers, for a period not to exceed the period for which the statement is required.

(5) Any statement filed by a motion picture payroll services company pursuant to this subdivision shall be applied to all affiliated entities of the motion picture payroll services company in existence at the time the statement is filed.

(c) For each rating period beginning on or after January 1, 2007, in which an employer operating as a motion picture payroll services company obtains or attempts to obtain a more favorable rate of contributions under this section in a manner that is due to deliberate ignorance, reckless disregard, fraud, intent to evade, misrepresentation, or willful nondisclosure, the director shall assign the maximum contribution rate plus 2 percent for each applicable rating period, the current rating period, and the subsequent rating period. Contributions paid in excess of the maximum rate under this section shall not be credited to the employing unit's reserve account.

(d) (1) On and after January 1, 2007, whenever a motion picture payroll services company creates or acquires a motion picture payroll services company, or acquires substantially all of the assets of a motion picture payroll services company, the created or acquired motion picture payroll services company shall:

(A) Constitute a separate employing unit, notwithstanding Sections 135.1 and 135.2.

(B) Have its reserve account and rate of contributions determined in accordance with subdivision (e).

(C) Notify the department of the entity being created or acquired and the nature of its affiliation to that entity.

(2) The department may promulgate regulations requiring a motion pictures payroll services company, prior to the creation or acquisition of a motion picture payroll services company that will be an affiliated entity, to seek the approval of the department to apply the provisions of this section to the created or acquired entity.

(e) When a motion picture payroll services company transfers all or part of its business or payroll to another motion picture payroll services company, as defined by this section, the reserve account attributable to the transferor shall be transferred to the transferee motion picture payroll

services company, and the transferee's rate of contribution shall be determined in accordance with Section 1052. The transferee shall notify the department within 15 days of the transfer of the business or payroll.

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

(1) "Affiliated entity" means any one or more motion picture payroll services company or companies that are united by factors of common ownership, management, or control as prescribed by Section 1061.

(2) "Allied motion picture services company" means any person engaged in an industry closely allied with, and whose work is integral to, a motion picture production company in the development, production, or postproduction of a motion picture, excluding the distribution of the completed motion picture and any activities occurring thereafter, and who hires from the same pool of craft and guild or union workers, actors, or extras as a motion picture production company.

(3) "Motion picture" means a motion picture of any type, including a theatrical motion picture, a television production, a television commercial, a music video, or any other type of motion picture regardless of its theme or the technology used in its production or distribution.

(4) (A) "Motion picture payroll services company" means any employing unit that directly or through its affiliated entities meets all of the following criteria:

(i) Contractually provides the services of motion picture production workers to a motion picture production company or to an allied motion picture services company.

(ii) Is a signatory to a collective bargaining agreement for one or more of its clients.

(iii) Controls the payment of wages to the motion picture production workers and pays those wages from its own account or accounts.

(iv) Is contractually obligated to pay wages to the motion picture production workers without regard to payment or reimbursement by the motion picture production company or allied motion picture services company.

(v) At least 80 percent of the wages paid by the motion picture payroll services company each calendar year are paid to workers associated between contracts with motion picture production companies and motion picture payroll services companies.

(B) If the director determines that any employing unit is operating as a motion picture payroll services company but is failing to comply with any of the provisions of subparagraph (A) of paragraph (4), the employing unit is subject to determination of the employer-employee relationship pursuant to this code. When the director's ruling becomes final, the director may preclude the employing unit from being classified as a

motion picture payroll services company pursuant to this section for up to three years from the date of the determination.

(5) "Motion picture production company" means any employing unit engaged in the development, production, and postproduction of a motion picture, excluding the distribution of the completed motion picture and any activities occurring thereafter.

(6) "Motion picture production worker" means an individual who provides services to a motion picture production company or allied motion picture services company and who, with regard to those services, is reported under this part as an employee by the motion picture payroll services company. An individual who has been reported as an employee by the motion picture payroll services company, without regard to the individual's status as an employee or independent contractor, shall be the employee of the motion picture payroll services company for the purposes of this code throughout the contractual period with the motion picture payroll services company.

(7) "Wages" shall have the same meaning given the term in Article 2 (commencing with Section 926) of Chapter 4 of Part 1 of Division 1, and shall include residual payments.

(g) If the director determines that an entity does not meet any of the requirements specified by this section, the director shall give notice of its determination to that entity pursuant to Section 1206. The notice shall contain a statement of the facts and circumstances upon which the determination was made. The entity so noticed shall have the right to petition for review of the director's determination within 30 days of the notice, as provided in Section 1222.

(h) The director shall prescribe the form and manner of the statements and information required to be filed or reported by this section.

(i) On or before December 31, 2010, the department may report to the Legislature regarding the impact of this section on the Unemployment Insurance Fund and the entertainment industry.

(j) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2012, deletes or extends that date.

SEC. 2. Nothing in this act shall be construed to change existing law as it relates to employing units who do not elect to be considered a motion picture payroll services company pursuant to Section 679 of the Unemployment Insurance Code.

CHAPTER 812

An act to amend Section 4750 of, and to add Section 4758 to, the Penal Code, and to amend Section 4117 of the Welfare and Institutions Code, relating to prisoners.

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

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

SECTION 1. Section 4750 of the Penal Code is amended to read:

4750. A city, county, or superior court shall be entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with any of the following:

(a) Any crime committed at a state prison, whether by a prisoner, employee, or other person.

With respect to a prisoner, "crime committed at a state prison" as used in this subdivision, includes, but is not limited to, crimes committed by the prisoner while detained in local facilities as a result of a transfer pursuant to Section 2910 or 6253, or in conjunction with any hearing, proceeding, or other activity for which reimbursement is otherwise provided by this section.

(b) Any crime committed by a prisoner in furtherance of an escape. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of an escape.

(c) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner.

(d) Any trial or hearing on the question of the sanity of a prisoner.

(e) Any costs not otherwise reimbursable under Section 1557 or any other related provision in connection with any extradition proceeding for any prisoner released to hold.

(f) Any costs incurred by a coroner in connection with the death of a prisoner.

(g) Any costs incurred in transporting a prisoner within the host county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.

(h) Any crime committed by a state inmate at a state hospital for the care, treatment, and education of the mentally disordered, as specified in Section 7200 of the Welfare and Institutions Code.

SEC. 2. Section 4758 is added to the Penal Code, to read:

4758. (a) A county shall be entitled to reimbursement for reasonable and necessary costs incurred by the county with respect to an inmate housed and treated at a state hospital in that county pursuant to Section 2684, including, but not limited to,

any trial costs related to a crime committed at the hospital by an inmate housed at the hospital.

(b) Where an inmate referred for treatment to a state hospital pursuant to Section 2684 commits a crime during transportation from prison to the hospital, or commits a crime during transportation from the hospital to the prison, a county that prosecutes the defendant shall be entitled to reimbursement for the costs of prosecution.

SEC. 3. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2972, or Section 2966 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental health treatment costs shall be sent to the State Department of Mental Health and the statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health treatment costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition, the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Whenever a hearing is held pursuant to Section 1604, 1608, 1609, or 2966 of the Penal Code, all transportation costs to and from a state

hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The appropriate financial officer or other designated official of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county, which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

CHAPTER 813

An act to amend Section 11174.32 of the Penal Code, relating to child death investigations.

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

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

SECTION 1. Section 11174.32 of the Penal Code is amended to read:

11174.32. (a) Each county may establish an interagency child death review team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death review teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.

(b) Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse or neglect, in the determination of whether child abuse or neglect contributed to death or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.

(c) In developing an interagency child death review team and an autopsy protocol, each county, working in consultation with local members of the California State Coroner's Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including, but not limited to, the following:

(1) Experts in the field of forensic pathology.

(2) Pediatricians with expertise in child abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys.

(6) Child protective services staff.

(7) Law enforcement personnel.

(8) Representatives of local agencies which are involved with child abuse or neglect reporting.

(9) County health department staff who deals with children's health issues.

(10) Local professional associations of persons described in paragraphs (1) to (9), inclusive.

(d) Records exempt from disclosure to third parties pursuant to state or federal law shall remain exempt from disclosure when they are in the possession of a child death review team.

(e) (1) No less than once each year, each child death review team shall make available to the public findings, conclusions and recommendations of the team, including aggregate statistical data on the incidences and causes of child deaths.

(2) In its report, the child death review team shall withhold the last name of the child that is subject to a review or the name of the deceased child's siblings unless the name has been publicly disclosed or is required to be disclosed by state law, federal law, or court order.

CHAPTER 814

An act to amend Section 20221 of the Public Contract Code, and to amend Sections 130232 and 130243 of the Public Utilities Code, relating to transportation.

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

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

SECTION 1. Section 20221 of the Public Contract Code is amended to read:

20221. (a) The purchase of all supplies, equipment, and materials when the expenditure required exceeds one hundred thousand dollars ($100,000), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations, shall be by contract let to the lowest responsible bidder or, in the district's discretion, to the responsible bidder who submitted a proposal that provides the best value to the district on the basis of the factors identified in the solicitation. "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to requirements described in the solicitation documents. The construction of facilities and works when the expenditure required exceeds ten thousand dollars ($10,000) shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. This publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in its discretion.

(b) Whenever the expected procurement required exceeds two thousand five hundred dollars ($2,500), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations, and, in the case of the construction of facilities and works does not exceed ten thousand dollars ($10,000) or in the case of the purchase of supplies, equipment, or materials does not exceed one hundred thousand dollars ($100,000), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations, the district shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than one hundred thousand dollars ($100,000), the general manager may act for the board. When acting pursuant to this subdivision, the general manager shall, in each instance, promptly notify the board of the action taken.

SEC. 2. Section 130232 of the Public Utilities Code is amended to read:

130232. (a) Except as provided in subdivision (f), purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars ($25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. The publication shall be made at least 10 days

before the date for the receipt of the bids. The commission, at its discretion, may reject any and all bids and readvertise.

(b) Except as provided for in subdivision (f), whenever the expected expenditure required exceeds one thousand dollars ($1,000), but not twenty-five thousand dollars ($25,000), the commission shall obtain a minimum of three quotations, either written or oral, which permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than fifty thousand dollars ($50,000), the executive director may act for the commission.

(d) All bids for construction work submitted pursuant to this section shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

(1) Cash.

(2) A cashier's check made payable to the commission.

(3) A certified check made payable to the commission.

(4) A bidder's bond executed by an admitted surety insurer, made payable to the commission.

(e) Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the commission beyond 60 days from the date that the award was made.

(f) The following provisions apply only to the Los Angeles County Metropolitan Transportation Authority:

(1) The contract shall be let to the lowest responsible bidder or, in the commission's discretion, to the responsible bidder who submitted a proposal that provides the best value to the commission on the basis of the factors identified in the solicitation when the purchase price of all supplies, equipment, and materials exceeds one hundred thousand dollars ($100,000), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations. "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to requirements described in the solicitation documents. The contract shall be let to the lowest responsible bidder when the purchase price of the construction of all facilities exceeds twenty-five thousand dollars ($25,000).

(2) The commission shall obtain a minimum of three quotations, whether written or oral that permit prices and terms to be compared whenever the expected expenditure required exceeds two thousand five hundred dollars ($2,500), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations, but not one hundred

thousand dollars ($100,000), adjusted annually consistent with Chapter 1 of Title 48 of the Code of Federal Regulations.

SEC. 3. Section 130243 of the Public Utilities Code is amended to read:

130243. The Los Angeles County Metropolitan Transportation Authority shall adopt a change order procedure for contracts awarded by the authority that includes each of the following requirements:

(a) When a change order is proposed, the contract administrator of the authority shall be notified and shall determine whether a change order is required. After consulting with the general counsel of the authority and appropriate technical advisers, the contract administrator shall either approve or disapprove the proposed contract change order.

(b) The general counsel of the authority shall be consulted on the proposed change order at the earliest possible time to consider and render advice on the legal implications of the proposed change. The contract administrator shall not approve a proposed change order unless the general counsel recommends changing the terms of the contract.

(c) The contract administrator shall require the contractor to submit certified cost and pricing data for the proposed change, and shall require an internal fiscal audit of any proposed change order when cost and pricing data would be required under federal acquisition regulations contained in Subpart 15.4 of Part 15 of Subchapter C of Chapter 1 of Title 48 of the Code of Federal Regulations.

(d) The opinions of informed individuals working on the contract who oppose the adoption of a proposed change order shall be documented and be taken into consideration by the authority's change control board when determining whether a contract change is warranted.

CHAPTER 815

An act to amend Sections 94831 and 94834 of the Education Code, relating to private postsecondary education.

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

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

SECTION 1. Section 94831 of the Education Code is amended to read:

94831. No institution, or representative of that institution, shall do any of the following:

(a) Operate in this state a postsecondary educational institution not exempted from this chapter, unless the institution is currently approved to operate pursuant to this chapter. The bureau may institute an action, pursuant to Section 94955, to prevent any individual or entity from operating an institution in this state that has not been approved to operate pursuant to this chapter and to obtain any relief authorized by that section.

(b) Offer in this state, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from this chapter, whether that institution is within or outside this state, unless that agent is a natural person and has a currently valid agent's permit issued pursuant to this chapter, or accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter. The bureau, however, may adopt regulations to permit the rendering of legitimate public information services without a permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in this article and Article 7 (commencing with Section 94850), if it is applicable.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

(e) Promise or guarantee employment.

(f) Advertise concerning job availability, degree of skill, and length of time required to learn a trade or skill, unless the information is accurate and in no way misleading.

(g) Advertise, or indicate in any promotional material, that correspondence instruction or a correspondence course of study is offered without including in all advertising or promotional material the fact that the instruction or program of study is offered by correspondence or home study.

(h) Advertise, or indicate in any promotional material, that resident instruction or a program of study is offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(i) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication, or use "blind" advertising that fails to identify the school or institution.

(j) Advertise, or indicate in any promotional material, that the institution is accredited, unless the institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

(k) Fail to comply with federal requirements relating to the disclosure of information to students regarding vocational and career training programs, as described in Section 94816.

(*l*) (1) Fail to comply with Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations as it exists on January 1, 2007, and as it is amended from time to time thereafter.

(2) For each student who enters into a consumer credit contract that is subject to Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations as it exists on January 1, 2007, and as it is amended from time to time thereafter, the institution shall include the following statement in any written contract or agreement for educational services or, in the alternative, shall provide the student with a separate written notice containing the following statement:

"YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS SCHOOL, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE."

(3) The statement set forth in paragraph (2) shall be printed in boldface print of at least 12-point size.

SEC. 2. Section 94834 of the Education Code is amended to read:

94834. (a) Any person or business entity, regardless of the form of organization, that willfully violates Section 94800, Sections 94810 to 94826, inclusive, Section 94828, Section 94829, subdivisions (a) to (k), inclusive, of Section 94831, or Section 94832 is guilty of a crime and shall be subject to separate punishment for each violation either by imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine; or by imprisonment in the state prison, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.

(b) Notwithstanding any other provision of law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

(d) In addition to any other fines or penalties imposed pursuant to this section, any person or business entity found guilty of a crime as

described in subdivision (a) shall be ordered to pay the Attorney General, any district attorney, or any city attorney all of their costs and expenses in connection with any investigation incident to that prosecution. An institution shall not be required to pay the same costs and expenses to more than one investigating agency.

CHAPTER 816

An act to amend Sections 300, 302, 303, 306, 307, 309, 351, 354, 355, 357, 358, 359, 360, 400, 420, 422, 425, 501, 502, 503, 505, 506, 508, 509, 510, 511, 530, 531, 532, 533, 534, 535, and 536 of, to amend the heading of Part 2 (commencing with Section 350) of Division 3 of, to add Sections 351.6, 426, and 500.5 to, and to repeal Sections 353 and 424 of, the Family Code, and to amend Sections 100430, 102130, 102140, 102310, 102325, 102355, 103125, 103175, 103180, 103200, 103235, 103780, and 103785 of, and to repeal Section 103595 of, the Health and Safety Code, relating to marriage.

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

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

SECTION 1. Section 300 of the Family Code is amended to read:

300. (a) Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as authorized by this division, except as provided by Section 425 and Part 4 (commencing with Section 500).

(b) For purposes of this part, the document issued by the county clerk is a marriage license until it is registered with the county recorder, at which time the license becomes a marriage certificate.

SEC. 2. Section 302 of the Family Code is amended to read:

302. (a) An unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage upon obtaining a court order granting permission to the underage person or persons to marry.

(b) The court order and written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person shall be filed with the clerk of the court, and a certified copy of the order

shall be presented to the county clerk at the time the marriage license is issued.

SEC. 3. Section 303 of the Family Code is amended to read:

303. If it appears to the satisfaction of the court by application of a minor that the minor requires a written consent to marry and that the minor has no parent or has no parent capable of consenting, the court may make an order consenting to the issuance of a marriage license and granting permission to the minor to marry. The order shall be filed with the clerk of the court and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

SEC. 4. Section 306 of the Family Code is amended to read:

306. Except as provided in Section 307, a marriage shall be licensed, solemnized, and authenticated, and the authenticated marriage license shall be returned to the county recorder of the county where the marriage license was issued, as provided in this part. Noncompliance with this part by a nonparty to the marriage does not invalidate the marriage.

SEC. 5. Section 307 of the Family Code is amended to read:

307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met:

(a) The parties to the marriage sign and endorse on the form prescribed by the State Department of Health Services, showing all of the following:

(1) The fact, time, and place of entering into the marriage.

(2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony.

(3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

(b) The License and Certificate of Non-Clergy Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 10 days after the ceremony.

SEC. 6. Section 309 of the Family Code is amended to read:

309. If either party to a marriage denies the marriage, or refuses to join in a declaration of the marriage, the other party may proceed, by action pursuant to Section 103450 of the Health and Safety Code, to have the validity of the marriage determined and declared.

SEC. 7. The heading of Part 2 (commencing with Section 350) of Division 3 of the Family Code is amended to read:

PART 2. MARRIAGE LICENSE

SEC. 8. Section 351 of the Family Code is amended to read:

351. The marriage license shall show all of the following:

(a) The identity of the parties to the marriage.

(b) The parties' full given names at birth or by court order, and mailing addresses.

(c) The parties' dates of birth.

SEC. 8.5. Section 351.6 is added to the Family Code, to read:

351.6. Notwithstanding Section 307, 351, 351.5, 359, or 422 of this code, or Section 103175 or 103180 of the Health and Safety Code, a mailing address used by an applicant, witness, or person solemnizing or performing the marriage ceremony shall be a residential address, a business address, or a United States Postal Service post office box.

SEC. 9. Section 353 of the Family Code is repealed.

SEC. 10. Section 354 of the Family Code is amended to read:

354. (a) Each applicant for a marriage license shall be required to present authentic photo identification acceptable to the county clerk as to name and date of birth. A credible witness affidavit or affidavits may be used in lieu of authentic photo identification.

(b) For the purpose of ascertaining the facts mentioned or required in this part, if the clerk deems it necessary, the clerk may examine the applicants for a marriage license on oath at the time of the application. The clerk shall reduce the examination to writing and the applicants shall sign it.

(c) If necessary, the clerk may request additional documentary proof as to the accuracy of the facts stated.

(d) Applicants for a marriage license shall not be required to state, for any purpose, their race or color.

(e) If a marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney in fact shall comply with the requirements of this section on behalf of the applicant who is overseas, if necessary.

SEC. 11. Section 355 of the Family Code is amended to read:

355. (a) The forms for the marriage license shall be prescribed by the State Department of Health Services, and shall be adapted to set forth the facts required in this part.

(b) The marriage license shall include an affidavit, which the applicants shall sign, affirming that they have received the brochure provided for in Section 358. If the marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney in fact shall sign the affidavit on behalf of the applicant who is overseas.

SEC. 12. Section 357 of the Family Code is amended to read:

357. (a) The county clerk shall number each marriage license issued and shall transmit at periodic intervals to the county recorder a list or copies of the licenses issued.

(b) Not later than 60 days after the date of issuance, the county recorder shall notify licenseholders whose marriage license has not been returned of that fact and that the marriage license will automatically expire on the date shown on its face.

(c) The county recorder shall notify the licenseholders of the obligation of the person solemnizing their marriage to return the marriage license to the recorder's office within 10 days after the ceremony.

SEC. 13. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Health Services shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503.

(c) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(d) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 13.5. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Health Services shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 14. Section 359 of the Family Code is amended to read:

359. (a) Except as provided in Sections 420 and 426, applicants to be married shall first appear together in person before the county clerk to obtain a marriage license.

(b) The contents of the marriage license are provided in Part 1 (commencing with Section 102100) of Division 102 of the Health and Safety Code.

(c) The issued marriage license shall be presented to the person solemnizing the marriage by the parties to be married.

(d) The person solemnizing the marriage shall complete the solemnization sections on the marriage license, and shall cause to be entered on the marriage license the printed name, signature, and mailing address of at least one, and no more than two, witnesses to the marriage ceremony.

(e) The marriage license shall be returned by the person solemnizing the marriage to the county recorder of the county in which the license was issued within 10 days after the ceremony.

(f) As used in this division, "returned" means presented to the appropriate person in person, or postmarked, before the expiration of the specified time period.

SEC. 15. Section 360 of the Family Code is amended to read:

360. (a) If a marriage license is lost, damaged, or destroyed after the marriage ceremony, but before it is returned to the county recorder, or deemed unacceptable for registration by the county recorder, the person solemnizing the marriage, in order to comply with Section 359, shall obtain a duplicate marriage license by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

(b) The duplicate marriage license may not be issued later than one year after issuance of the original license and shall be returned by the person solemnizing the marriage to the county recorder within one year of the issuance date shown on the original marriage license.

(c) The county clerk may charge a fee to cover the actual costs of issuing a duplicate marriage license.

(d) If a marriage license is lost, damaged, or destroyed before a marriage ceremony takes place, the applicants shall purchase a new marriage license and the old license shall be voided.

SEC. 16. Section 400 of the Family Code is amended to read:

400. Marriage may be solemnized by any of the following who is of the age of 18 years or older:

(a) A priest, minister, rabbi, or authorized person of any religious denomination.

(b) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state.

(c) A judge or magistrate who has resigned from office.

(d) Any of the following judges or magistrates of the United States:

(1) A justice or retired justice of the United States Supreme Court.

(2) A judge or retired judge of a court of appeals, a district court, or a court created by an act of Congress the judges of which are entitled to hold office during good behavior.

(3) A judge or retired judge of a bankruptcy court or a tax court.

(4) A United States magistrate or retired magistrate.

(e) A legislator or constitutional officer of this state or a Member of Congress who represents a district within this state, while that person holds office.

SEC. 17. Section 420 of the Family Code is amended to read:

420. (a) No particular form for the ceremony of marriage is required for solemnization of the marriage, but the parties shall declare, in the physical presence of the person solemnizing the marriage and necessary witnesses, that they take each other as husband and wife.

(b) Notwithstanding subdivision (a), a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of

the marriage may enter into that marriage by the appearance of an attorney in fact, commissioned and empowered in writing for that purpose through a power of attorney. The attorney in fact must personally appear at the county clerk's office with the party who is not stationed overseas, and present the original power of attorney duly signed by the party stationed overseas and acknowledged by a notary or witnessed by two officers of the United States Armed Forces. Copies in any form, including by facsimile, are not acceptable. The power of attorney shall state the full given names at birth, or by court order, of the parties to be married, and that the power of attorney is solely for the purpose of authorizing the attorney in fact to obtain a marriage license on the person's behalf and participate in the solemnization of the marriage. The original power of attorney shall be a part of the marriage certificate upon registration.

(c) No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 18. Section 422 of the Family Code is amended to read:

422. The person solemnizing a marriage shall, sign and print or type upon the marriage license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:

(a) The fact, date (month, day, year), and place (city and county) of solemnization.

(b) The printed names, signatures, and mailing addresses of at least one, and no more than two, witnesses to the ceremony.

(c) The official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, rabbi, or other authorized person of any religious denomination.

(d) The person solemnizing the marriage shall also type or print his or her name and mailing address.

SEC. 19. Section 424 of the Family Code is repealed.

SEC. 20. Section 425 of the Family Code is amended to read:

425. If no record of the solemnization of a California marriage previously contracted under this division for that marriage is known to exist, the parties may purchase a License and Certificate of Declaration of Marriage from the county clerk in the parties' county of residence one year or more from the date of the marriage. The license and certificate shall be returned to the county recorder of the county in which the license was issued.

SEC. 21. Section 426 is added to the Family Code, to read:

426. If for sufficient reason, as described in subdivision (d), either or both of the parties to be married are physically unable to appear in person before the county clerk, a marriage license may be issued by the

county clerk to the person solemnizing the marriage if the following requirements are met:

(a) The person solemnizing the marriage physically presents an affidavit to the county clerk explaining the reason for the inability to appear.

(b) The affidavit is signed under penalty of perjury by the person solemnizing the marriage and by both parties.

(c) The signature of any party to be married who is unable to appear in person before the county clerk is authenticated by a notary public or a court prior to the county clerk issuing the marriage license.

(d) Sufficient reason includes proof of hospitalization, incarceration, or any other reason proved to the satisfaction of the county clerk.

SEC. 22. Section 500.5 is added to the Family Code, to read:

500.5. For purposes of this part, the document issued by the county clerk is a marriage license until it is registered with the county clerk, at which time the license becomes a marriage certificate.

SEC. 23. Section 501 of the Family Code is amended to read:

501. Except as provided in Section 502, a confidential marriage license shall be issued by the county clerk upon the personal appearance together of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code.

SEC. 24. Section 502 of the Family Code is amended to read:

502. If for sufficient reason, as described in subdivision (d), either or both of the parties to be married are physically unable to appear in person before the county clerk, a confidential marriage license may be issued by the county clerk to the person solemnizing the marriage if the following requirements are met:

(a) The person solemnizing the marriage physically presents an affidavit to the county clerk explaining the reason for the inability to appear.

(b) The affidavit is signed under penalty of perjury by the person solemnizing the marriage and by both parties.

(c) The signature of any party to be married who is unable to appear in person before the county clerk is authenticated by a notary public or a court prior to the county clerk issuing the confidential marriage license.

(d) Sufficient reason includes proof of hospitalization, incarceration, or any other reason proved to the satisfaction of the county clerk.

SEC. 25. Section 503 of the Family Code is amended to read:

503. The county clerk shall issue a confidential marriage license upon the request of a notary public approved by the county clerk to issue confidential marriage licenses pursuant to Chapter 2 (commencing with

Section 530) and upon payment by the notary public of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse a notary public who issues a confidential marriage license for the amount of the fees.

SEC. 26. Section 505 of the Family Code is amended to read:

505. (a) The form of the confidential marriage license shall be prescribed by the State Registrar of Vital Statistics.

(b) The form shall be designed to require that the parties to be married declare or affirm that they meet all of the requirements of this chapter.

(c) The form shall include an affidavit, which the bride and groom shall sign, affirming that they have received the brochure provided for in Section 358.

SEC. 27. Section 506 of the Family Code is amended to read:

506. (a) The confidential marriage license shall be presented to the person solemnizing the marriage.

(b) Upon performance of the ceremony, the solemnization section on the confidential marriage license shall be completed by the person solemnizing the marriage.

(c) The confidential marriage license shall be returned by the person solemnizing the marriage to the office of the county clerk in the county in which the license was issued within 10 days after the ceremony.

SEC. 28. Section 508 of the Family Code is amended to read:

508. Upon issuance of a confidential marriage license, parties shall be provided with an application to obtain a certified copy of the confidential marriage certificate from the county clerk.

SEC. 29. Section 509 of the Family Code is amended to read:

509. (a) A party to a confidential marriage may obtain a certified copy of the confidential marriage certificate from the county clerk of the county in which the certificate is filed in any of the following ways:

(1) By submitting the application for a certified copy of the confidential marriage certificate provided to the parties pursuant to Section 508.

(2) By personally appearing before a notary public or at the county clerk's office in the party's county of residence, producing valid photo identification, obtaining a certificate attesting to the party's identity from the notary public or county clerk, and mailing or faxing that certificate, together with a request for the certified copy of the confidential marriage certificate, to the county clerk of the county with which the certificate is filed.

(3) By personally appearing at the county clerk's office where the certificate is filed and producing proper identification.

(b) Copies of a confidential marriage certificate may be issued to the parties to the marriage upon payment of the fee equivalent to that charged for copies of a marriage certificate.

SEC. 30. Section 510 of the Family Code is amended to read:

510. (a) If a confidential marriage license is lost, damaged, or destroyed after the performance of the marriage, but before it is returned to the county clerk, or deemed unacceptable for registration by the county clerk, the person solemnizing the marriage, in order to comply with Section 506, shall obtain a duplicate marriage license by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

(b) The duplicate license may not be issued later than one year after issuance of the original license and shall be returned by the person solemnizing the marriage to the county clerk within one year of the issuance date shown on the original marriage license.

(c) The county clerk may charge a fee to cover the actual costs of issuing a duplicate marriage license.

(d) If a marriage license is lost, damaged, or destroyed before a marriage ceremony takes place, the applicants shall purchase a new marriage license and the old license shall be voided.

SEC. 31. Section 511 of the Family Code is amended to read:

511. (a) Except as provided in subdivision (b), the county clerk shall maintain confidential marriage certificates filed pursuant to Section 506 as permanent records which shall not be open to public inspection except upon order of the court issued upon a showing of good cause. The confidential marriage license is a confidential record and not open to public inspection without an order from the court.

(b) The county clerk shall keep all original certificates of confidential marriages for one year from the date of filing. After one year, the clerk may reproduce the certificates pursuant to Section 26205 of the Government Code, and dispose of the original certificates. The county clerk shall promptly seal and store at least one original negative of each microphotographic film made in a manner and place as reasonable to ensure its preservation indefinitely against loss, theft, defacement, or destruction. The microphotograph shall be made in a manner that complies with the minimum standards or guidelines, or both, recommended by the American National Standards Institute or the Association for Information and Image Management. Every reproduction shall be deemed and considered an original. A certified copy of any reproduction shall be deemed and considered a certified copy of the original.

(c) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage, but

the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the court.

(d) The county clerk shall, not less than quarterly, transmit copies of all original confidential marriage certificates retained, or originals of reproduced confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this chapter, but shall not disclose the date of the marriage.

SEC. 32. Section 530 of the Family Code is amended to read:

530. (a) No notary public shall issue a confidential marriage license pursuant to this part unless the notary public is approved by the county clerk to issue confidential marriage licenses pursuant to this chapter.

(b) A violation of subdivision (a) is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or six months in jail.

SEC. 33. Section 531 of the Family Code is amended to read:

531. (a) An application for approval to authorize confidential marriages pursuant to this part shall be submitted to the county clerk in the county in which the notary public who is applying for the approval resides. The county clerk shall exercise reasonable discretion as to whether to approve applications.

(b) The application shall include all of the following:

(1) The full name of the applicant.

(2) The date of birth of the applicant.

(3) The applicant's current residential address and telephone number.

(4) The address and telephone number of the place where the applicant will issue confidential marriage licenses.

(5) The full name of the applicant's employer if the applicant is employed by another person.

(6) Whether or not the applicant has engaged in any of the acts specified in Section 8214.1 of the Government Code.

(c) The application shall be accompanied by the fee provided for in Section 536.

SEC. 34. Section 532 of the Family Code is amended to read:

532. No approval, or renewal of the approval, shall be granted pursuant to this chapter unless the notary public shows evidence of successful completion of a course of instruction concerning the issuance of confidential marriage licenses that was conducted by the county clerk in the county of registration. The course of instruction shall not exceed six hours in duration.

SEC. 35. Section 533 of the Family Code is amended to read:

533. An approval to issue confidential marriage licenses pursuant to this chapter is valid for one year. The approval may be renewed for additional one-year periods provided the following conditions are met:

(a) The applicant has not violated any of the provisions provided for in Section 531.

(b) The applicant has successfully completed the course prescribed in Section 532.

(c) The applicant has paid the renewal fee provided for in Section 536.

SEC. 36. Section 534 of the Family Code is amended to read:

534. (a) The county clerk shall maintain a list of the notaries public who are approved to issue confidential marriage licenses. The list shall be available for inspection by the public.

(b) It is the responsibility of a notary public approved to issue confidential marriage licenses pursuant to this chapter to keep current the information required in paragraphs (1), (3), (4), and (5) of subdivision (b) of Section 531. This information shall be used by the county clerk to update the list required to be maintained by this section.

SEC. 37. Section 535 of the Family Code is amended to read:

535. (a) If, after an approval to issue confidential marriage licenses is granted pursuant to this chapter, it is discovered that the notary public has engaged in any of the actions specified in Section 8214.1 of the Government Code, the approval shall be revoked, and the county clerk shall notify the Secretary of State for whatever action the Secretary of State deems appropriate. Any fees paid by the notary public shall be retained by the county clerk.

(b) If a notary public who is approved to authorize confidential marriages pursuant to this chapter is alleged to have violated a provision of this division, the county clerk shall conduct a hearing to determine if the approval of the notary public should be suspended or revoked. The notary public may present any evidence as is necessary in the notary public's defense. If the county clerk determines that the notary public has violated a provision of this division, the county clerk may place the notary public on probation or suspend or revoke the notary public's registration, and any fees paid by the notary public shall be retained by the county clerk. The county clerk shall report the findings of the hearing to the Secretary of State for whatever action the Secretary of State deems appropriate.

SEC. 38. Section 536 of the Family Code is amended to read:

536. (a) The fee for an application for approval to authorize confidential marriages pursuant to this chapter is three hundred dollars ($300).

(b) The fee for renewal of an approval is three hundred dollars ($300).

(c) Fees received pursuant to this chapter shall be deposited in a trust fund established by the county clerk. The money in the trust fund shall be used exclusively for the administration of the programs described in this chapter.

SEC. 39. Section 100430 of the Health and Safety Code is amended to read:

100430. (a) The fees or charges for a record search or for the issuance of any license, permit, registration, or any other document pursuant to Section 26832 or 26840 of the Government Code, or Section 102525, 102625, 102670, 102725, 102750, 103050, 103065, 103225, 103325, 103400, 103425, 103450, 103525, 103590, 103625, 103650, 103675, 103690, 103695, 103700, 103705, 103710, 103715, 103720, 103725, or 103735 of this code, may be adjusted annually by the percentage change determined pursuant to Section 100425.

The base amount to be adjusted shall be the statutory base amount of the fee or charge plus the sum of the prior adjustments to the statutory base amount. Whenever the statutory base amount is amended, the base amount shall be the new statutory base amount plus the sum of adjustments to the new statutory base amount calculated subsequent to the statutory base amendment. The actual dollar fee or charge shall be rounded to the next highest whole dollar.

(b) Beginning January 1, 1983, the department shall annually publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 40. Section 102130 of the Health and Safety Code is amended to read:

102130. All marriage licenses shall be written legibly and shall be photographically and micrographically reproducible. A marriage license is not complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

SEC. 41. Section 102140 of the Health and Safety Code is amended to read:

102140. No alteration or change in any respect shall be made on any marriage license or certificate after its acceptance for registration by the local registrar, or on other records made in pursuance of this part, except where supplemental information required for statistical purposes is furnished.

SEC. 42. Section 102310 of the Health and Safety Code is amended to read:

102310. The local registrar of marriages shall carefully examine each license before acceptance for registration and, if it is incomplete or unsatisfactory, he or she shall require any further information to be furnished as may be necessary to make the record satisfactory before acceptance for registration.

SEC. 43. Section 102325 of the Health and Safety Code is amended to read:

102325. The local registrar shall number each marriage certificate consecutively beginning with the number one for either the first event occurring, or first event registered in, each calendar year. Numbering may be based on either the year that the event occurs or the year of registration.

SEC. 44. Section 102355 of the Health and Safety Code is amended to read:

102355. The local registrar of marriages shall transmit to the State Registrar not less than quarterly all original marriage certificates accepted for registration by him or her during the preceding quarter. Certificates shall be batched by calendar year of event prior to transmission. Certificates may be transmitted at more frequent intervals by arrangement with the State Registrar.

SEC. 45. Section 103125 of the Health and Safety Code is amended to read:

103125. The forms for the marriage license shall be prescribed by the State Registrar.

SEC. 46. Section 103175 of the Health and Safety Code is amended to read:

103175. (a) The marriage license shall contain as nearly as can be ascertained all of the following and other items as the State Registrar may designate:

(1) The first section shall include the personal data of parties married, including the date of birth, full given name at birth or by court order, birthplace, mailing address, names and birthplaces of the parents, maiden name of the mothers, the number of previous marriages, marital status, and the maiden name of the female if previously married.

(2) The second section shall include the signatures of parties married, license to marry, county and date of issue of license, and the marriage license number.

(3) The third section shall include the certification of one person performing the ceremony, that shall show his or her official position including the denomination if he or she is a clergy or clergyperson, and the printed name, signature, and mailing address of at least one, and no more than two, witnesses to the marriage ceremony. The person

performing the marriage ceremony shall also type or print his or her name and mailing address on the marriage license.

(b) The marriage license shall not contain any reference to the race or color of parties married.

SEC. 47. Section 103180 of the Health and Safety Code is amended to read:

103180. (a) Sections 103150 and 103175 do not apply to marriages entered into pursuant to Section 307 of the Family Code. Subdivisions (b) and (c) govern the registration and the content of the License and Certificate of Declaration of Marriage of those marriages.

(b) Each marriage entered into pursuant to Section 307 of the Family Code shall be registered by the parties entering into the marriage or by a witness who signed under paragraph (2) of subdivision (a) of Section 307 within 10 days after the ceremony with the local registrar of marriages for the county in which the License and Certificate of Declaration of Marriage was issued.

(c) The License and Certificate of Declaration of Marriage entered into pursuant to Section 307 of the Family Code shall contain as nearly as can be ascertained the following:

(1) The personal data of parties married, including the date of birth, full given legal names at birth or by court order, birthplace, mailing address, names and birthplaces of their parents, maiden name of their mothers, the number of previous marriages, marital status, and the maiden name of the female, if previously married and if her name has been changed.

(2) The license to marry.

(3) The county and date of issuance of the license.

(4) The marriage license number.

(5) The certification of the parties entering into the marriage, that shall show the following:

(A) The fact, time, and place of entering into the marriage.

(B) The printed name, signature, and mailing address of two witnesses to the marriage ceremony.

(C) The religious society or denomination of the parties married, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination.

(6) The signatures of the parties married.

(7) Any other items that the State Registrar shall designate.

The License and Certificate of Declaration of Marriage shall not contain any reference to the race or color of parties married or to a person performing or solemnizing the marriage.

SEC. 48. Section 103200 of the Health and Safety Code is amended to read:

103200. The clerk of the court of each county shall send a copy of every judgment of dissolution of marriage, of legal separation, and of declaration of nullity to the State Registrar monthly. If a judgment of dissolution of marriage is vacated, the clerk of the court shall send a copy of the order or dismissal to the State Registrar.

SEC. 49. Section 103235 of the Health and Safety Code is amended to read:

103235. If the amendment relates to a certificate or marriage license that has not been transmitted to the State Registrar, the local registrar shall review the amendment for acceptance for filing, and if accepted shall file the amendment and shall note the fact of the amendment, with its date, on the otherwise unaltered original certificate or marriage license.

SEC. 50. Section 103595 of the Health and Safety Code is repealed.

SEC. 51. Section 103780 of the Health and Safety Code is amended to read:

103780. (a) Every person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of birth, fetal death, or death, or marriage license, or any record established by this part is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

SEC. 52. Section 103785 of the Health and Safety Code is amended to read:

103785. Every person who is required to fill out a certificate of birth, fetal death, or death, or marriage license and register it with the local registrar, or deliver it, upon request, to any person charged with the duty of registering it, and who fails, neglects, or refuses to perform that duty in the manner required by this part is guilty of a misdemeanor.

SEC. 53. Section 13.5 of this bill incorporates amendments to Section 358 of the Family Code proposed by both this bill and AB 2051. 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 358 of the

Family Code, and (3) this bill is enacted after AB 2051, in which case Section 13 of this bill shall not become operative.

SEC. 54. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 55. Notwithstanding Section 56, the provisions of Section 8.5 shall become operative on January 1, 2007. Notwithstanding Section 56, the provisions of Section 13.5 shall also become operative on January 1, 2007, if Section 13.5 becomes operative pursuant to Section 53.

SEC. 56. The provisions of this act shall become operative on January 1, 2008.

CHAPTER 817

An act to amend, repeal, and add Sections 70901 and 70902 of the Education Code, relating to community colleges.

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

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

SECTION 1. In enacting this act, it is the intent of the Legislature to further the principle of local control over curriculum offerings by allowing community college districts to offer credit courses that are not part of an approved educational program without prior approval by the Board of Governors of the California Community Colleges. This change is not intended to permit colleges to circumvent the requirement for approval of educational programs by the Board of Governors of the California Community Colleges or to permit colleges to convert noncredit or community service classes to credit courses because credit courses must provide instruction with rigor and intensity and meet all other statutory and regulatory requirements.

SEC. 2. Section 70901 of the Education Code is amended to read:

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to

maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) (i) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

(ii) The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) (A) Review and approve all educational programs offered by community college districts. The board of governors shall adopt regulations defining the conditions under which a community college district may offer, without the need for approval by the board of governors, a credit course that is not part of an approved educational program. Regulations adopted under this paragraph shall ensure that appropriate safeguards involving training and monitoring are in place, and shall ensure that the authority to offer credit courses that are not part of an approved educational program does not have the effect of permitting community college districts to operate educational programs without the approval of the board of governors.

(B) In a manner that is consistent with the regulations adopted by the board of governors under this paragraph, the chancellor shall monitor courses approved pursuant to the act that adds this subparagraph. The chancellor shall prepare and submit a report to the chairpersons of the appropriate policy and fiscal committees of the Legislature on or before January 1, 2012. This report shall include, but not necessarily be limited

to, a description of the results of the monitoring and the extent to which community college districts have complied with applicable regulations of the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

(f) 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. 3. Section 70901 is added to the Education Code, to read:

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing

development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance of those purposes, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of

governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) (i) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

(ii) The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

(f) This section shall become operative on January 1, 2013.

SEC. 4. Section 70902 of the Education Code is amended to read:

70902. (a) (1) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program or activity, or may otherwise act, in any manner that is not in conflict with, inconsistent with, or preempted by, any law, and that is not in conflict with the purposes for which community college districts are established.

(2) The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs, and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies

for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval.

(2) (A) Establish policies for and approve credit courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. A credit course of instruction that is not offered in an approved educational program may be offered without the approval of the board of governors only under conditions authorized by regulations adopted by the board of governors.

(B) The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs, without referral to the board of governors.

(3) Establish academic standards, probation, dismissal, and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors, and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures, and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, to ensure the right to participate effectively in district and college governance, and to ensure the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire, by eminent domain, any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate. However, the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

(e) 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. 5. Section 70902 is added to the Education Code, to read:

70902. (a) (1) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

(2) The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board

shall submit the comprehensive plans to the board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs, without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures that are consistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, to ensure the right to participate effectively in district and college governance, and to ensure the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate. However, the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

(e) This section shall become operative on January 1, 2013.

CHAPTER 818

An act to add Part 5.6 (commencing with Section 14995) to Division 3 of Title 2 of the Government Code, relating to state government.

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

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

SECTION 1. Part 5.6 (commencing with Section 14995) is added to Division 3 of Title 2 of the Government Code, to read:

PART 5.6. ELECTRONIC FUNDS TRANSFER TASK FORCE

CHAPTER 1. ELECTRONIC FUNDS TRANSFER TASK FORCE

14995. (a) The Electronic Funds Transfer Task Force is hereby established in state government.

(b) The Electronic Funds Transfer Task Force shall consist of one representative from each of the following agencies, boards, and departments, appointed by the corresponding agency, board, or department head, as follows:

(1) State Board of Equalization.

(2) Franchise Tax Board.

(3) Employment Development Department.
(4) Treasurer.
(5) Controller.
(6) Department of Finance.
(7) Department of General Services.
(8) Department of Technology Services.

(c) The Electronic Funds Transfer Task Force shall study and report to the Legislature, on or before April 1, 2008, a plan for the development and implementation of a payment dispersal system utilizing electronic funds transfer technology. The plan shall include, but not be limited to, all of the following:

(1) An examination of all payments dispersed by the state and the methods currently used to transfer these funds.

(2) A recommendation on which payments should be included in a new electronic payment dispersal system.

(3) An examination of the cost of developing and utilizing a comprehensive electronic payment dispersal system, including, but not limited to, all of the following:

(A) Costs and savings related to float time.
(B) Costs and savings related to transaction process time.
(C) Costs and savings related to paperless transactions.
(D) Costs and savings related to system development and implementation of a new electronic payment dispersal system.
(E) Costs and savings related to administration of a new electronic payment dispersal system.

(4) A recommendation on how a comprehensive electronic payment dispersal system should be developed, including, but not limited to, recommendations on whether the state should contract for private administration of an electronic payment dispersal system, develop a system within state government, or use any other means available.

(5) An examination of the costs and benefits of using a user-friendly, single online portal interface for the dispersal of funds through an electronic payment dispersal system.

(6) A recommendation on which state agencies, boards, and departments should be required to use the electronic payment dispersal system for payment of funds, and what, if any, exceptions should be provided for these agencies, boards, and departments.

(7) An examination and recommendation on incorporating the dispersal of funds for localities into the electronic payment system.

(8) An examination of and recommendation on the system's flexibility for future expansion of services.

(9) An examination of and recommendation on incorporating electronic payment cards, or similar products, into the electronic payment

dispersal system. This shall include, but not be limited to, the costs and savings of using electronic payment cards for social services and unbanked customers.

(10) An examination of and recommendation on incorporating electronic check conversion into the electronic dispersal system.

(11) An recommendation on the timely development of the electronic payment dispersal system.

CHAPTER 819

An act to amend Section 4600 of the Labor Code, relating to workers' compensation.

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

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

SECTION 1. The Legislature finds and declares, based on published research, that the results of medical treatment by physicians who have previously cared for the employee prior to the injury are comparable to the results of medical treatment by physicians chosen by employers or insurers, and that the right of an employee to designate a personal physician should not be permitted to expire on April 30, 2007.

SEC. 2. Section 4600 of the Labor Code is amended to read:

4600. (a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer. In the case of his or her neglect or refusal reasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment.

(b) As used in this division and notwithstanding any other provision of law, medical treatment that is reasonably required to cure or relieve the injured worker from the effects of his or her injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Section 5307.27 or, prior to the adoption of those guidelines, the updated American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines.

(c) Unless the employer or the employer's insurer has established a medical provider network as provided for in Section 4616, after 30 days

from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

(d) (1) If an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if either of the following conditions exist:

(A) The employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(B) The employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Section 4616.7.

(2) For purposes of paragraph (1), a personal physician shall meet all of the following conditions:

(A) The physician is the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) The physician is the employee's primary care physician and has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history. "Personal physician" includes a medical group, if the medical group is a single corporation or partnership composed of licensed doctors of medicine or osteopathy, which operates an integrated multispecialty medical group providing comprehensive medical services predominantly for nonoccupational illnesses and injuries.

(C) The physician agrees to be predesignated.

(3) If the employer provides nonoccupational health care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the employer is notified pursuant to paragraph (1), all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(4) If the employer provides nonoccupational health care, as described in Section 4616.7, all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by the applicable provisions of the Insurance Code.

(5) The insurer may require prior authorization of any nonemergency treatment or diagnostic service and may conduct reasonably necessary utilization review pursuant to Section 4610.

(6) An employee shall be entitled to all medically appropriate referrals by the personal physician to other physicians or medical providers within the nonoccupational health care plan. An employee shall be entitled to treatment by physicians or other medical providers outside of the nonoccupational health care plan pursuant to standards established in Article 5 (commencing with Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(7) The division shall conduct an evaluation of this program and present its findings to the Governor and the Legislature on or before December 31, 2008.

(8) This subdivision shall remain in effect only until December 31, 2009, and as of that date is repealed, unless a later enacted statute that is enacted before December 31, 2009, deletes or extends that date.

(e) (1) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, the employee submits to examination by a physician, he or she shall be entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to reporting for the examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to the examination.

(2) Regardless of the date of injury, "reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile or the mileage rate adopted by the Director of the Department of Personnel Administration pursuant to Section 19820 of the Government Code, whichever is higher, plus any bridge tolls. The mileage and tolls shall be paid to the employee at the time he or she is given notification of the time and place of the examination.

(f) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, an employee submits to examination by a physician and the employee does not proficiently speak or understand the English language, he or she shall be entitled to the services of a qualified interpreter in accordance with conditions and a fee schedule prescribed by the administrative director. These services shall be provided by the employer. For purposes of this section, "qualified interpreter" means a language interpreter certified, or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code.

SEC. 2.5. Section 4600 of the Labor Code is amended to read:

4600. (a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer. In the case of his or her neglect or refusal reasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment.

(b) As used in this division and notwithstanding any other provision of law, medical treatment that is reasonably required to cure or relieve the injured worker from the effects of his or her injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Section 5307.27 or, prior to the adoption of those guidelines, the updated American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines.

(c) As used in this division and notwithstanding any other provision of law, acupuncture treatment that is reasonably required to relieve the injured worker from the effects of his or her injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Section 5307.27 or, prior to the adoption of those guidelines, as set forth in the "Acupuncture and Electroacupuncture: Evidence-Based Treatment Guidelines-August 2004" published by the Council of Acupuncture and Oriental Medicine Associations and the Foundation for Acupuncture Research, and which shall include any subsequent updates of those guidelines, or other guidelines. Nothing in this section shall prohibit the administrative director from adopting treatment guidelines for acupuncture if those guidelines are at least as comprehensive as the "Acupuncture and Electroacupuncture: Evidence-Based Treatment Guidelines-August 2004."

(d) Unless the employer or the employer's insurer has established a medical provider network as provided for in Section 4616, after 30 days from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

(e) (1) If an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if either of the following conditions exist:

(A) The employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(B) The employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Section 4616.7.

(2) For purposes of paragraph (1), a personal physician shall meet all of the following conditions:

(A) The physician is the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) The physician is the employee's primary care physician and has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history. "Personal physician" includes a medical group, if the medical group is a single corporation or partnership composed of licensed doctors of medicine or osteopathy, which operates an integrated multispecialty medical group providing comprehensive medical services predominantly for nonoccupational illnesses and injuries.

(C) The physician agrees to be predesignated.

(3) If the employer provides nonoccupational health care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the employer is notified pursuant to paragraph (1), all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(4) If the employer provides nonoccupational health care, as described in Section 4616.7, all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by the applicable provisions of the Insurance Code.

(5) The insurer may require prior authorization of any nonemergency treatment or diagnostic service and may conduct reasonably necessary utilization review pursuant to Section 4610.

(6) An employee shall be entitled to all medically appropriate referrals by the personal physician to other physicians or medical providers within the nonoccupational health care plan. An employee shall be entitled to treatment by physicians or other medical providers outside of the nonoccupational health care plan pursuant to standards established in Article 5 (commencing with Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(7) The division shall conduct an evaluation of this program and present its findings to the Governor and the Legislature on or before December 31, 2008.

(8) This subdivision shall remain in effect only until December 31, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2009, deletes or extends that date.

(f) (1) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, the employee submits to examination by a physician, he or she shall be entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to reporting for the examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to the examination.

(2) Regardless of the date of injury, "reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile or the mileage rate adopted by the Director of the Department of Personnel Administration pursuant to Section 19820 of the Government Code, whichever is higher, plus any bridge tolls. The mileage and tolls shall be paid to the employee at the time he or she is given notification of the time and place of the examination.

(g) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, an employee submits to examination by a physician and the employee does not proficiently speak or understand the English language, he or she shall be entitled to the services of a qualified interpreter in accordance with conditions and a fee schedule prescribed by the administrative director. These services shall be provided by the employer. For purposes of this section, "qualified interpreter" means a language interpreter certified, or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 4600 of the Labor Code proposed by both this bill and AB 2287. 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 4600 of the Labor Code, and (3) this bill is enacted after AB 2287, in which case Section 2 of this bill shall not become operative.

CHAPTER 820

An act to add Sections 1714.4 and 1714.41 to the Civil Code, relating to child support.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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) In California, there were an estimated $19 billion in unpaid child support obligations as of January 2006.

(b) The failure of a parent to pay child support obligations often subjects the child and the other parent to a life of poverty or substandard living conditions, reduced access to medical care, and diminished educational opportunities.

(c) The failure of a parent to satisfy court-ordered or court-approved child support obligations depletes the State of California of one of its most valued resources— the next generation of healthy and well-educated Californians.

SEC. 2. Section 1714.4 is added to the Civil Code, to read:

1714.4. (a) Any person or business entity that knowingly assists a child support obligor who has an unpaid child support obligation to escape, evade, or avoid paying court-ordered or court-approved child support shall be liable for three times the value of the assistance provided, such as the fair market value of the obligor's assets transferred or hidden. The maximum liability imposed by this section shall not exceed the entire child support obligation due. Any funds or assets collected pursuant to this section shall be paid to the child support obligee, and shall not reduce the amount of the unpaid child support obligation. Upon the satisfaction of the unpaid child support obligation, this section shall not apply.

(b) For purposes of this section, actions taken to knowingly assist a child support obligor to escape, evade, or avoid paying court-ordered or court-approved child support include, with actual knowledge of the child support obligation, helping to hide or transfer assets of the child support obligor.

(c) This section shall not apply to a financial institution unless the financial institution has actual knowledge of the child support obligation and, with that knowledge, knowingly assists the obligor to escape, evade, or avoid paying the child support obligation. However, a financial

institution with knowledge of an asset transfer has no duty to inquire into the rightfulness of the transaction, nor shall it be deemed to have knowingly assisted an obligor to escape, evade, or avoid paying the child support obligation if that assistance is provided by an employee or agent of the financial institution acting outside the terms and conditions of employment or agency without the actual knowledge of the financial institution.

SEC. 3. Section 1714.41 is added to the Civil Code, to read:

1714.41. (a) Any person or business entity that knowingly assists a child support obligor who has an unpaid child support obligation to escape, evade, or avoid paying court-ordered or court-approved child support shall be liable for three times the value of the assistance provided, such as the fair market value of the assets transferred or hidden, or the amount of the wages or other compensation paid to the child support obligor but not reported. The maximum liability imposed by this section shall not exceed the entire child support obligation due. Any funds or assets collected pursuant to this section shall be paid to the child support obligee, and shall not reduce the amount of the unpaid child support obligation. Upon the satisfaction of the unpaid child support obligation, this section shall not apply.

(b) For purposes of this section, actions taken to knowingly assist a child support obligor to escape, evade, or avoid paying court-ordered or court-approved child support include, but are not limited to, any of the following actions taken when the individual or entity knew or should have known of the child support obligation:

(1) Hiring or employing the child support obligor as an employee in a trade or business and failing to timely file a report of new employees with the California New Employee Registry maintained by the Employment Development Department.

(2) Engaging the child support obligor as a service provider and failing to timely file a report with the Employment Development Department as required by Section 1088.8 of the Unemployment Insurance Code.

(3) When engaged in a trade or business, paying wages or other forms of compensation for services rendered by a child support obligor that are not reported to the Employment Development Department as required, including, but not limited to, payment in cash or via barter or trade.

CHAPTER 821

An act to amend Section 14527 of the Government Code, relating to transportation.

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

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

SECTION 1. Section 14527 of the Government Code is amended to read:

14527. (a) After consulting with the department, the regional transportation planning agencies and county transportation commissions shall adopt and submit to the commission and the department, not later than December 15, 2001, and December 15 of each odd-numbered year thereafter, a five-year regional transportation improvement program in conformance with Section 65082. In counties where a county transportation commission has been created pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities Code, that commission shall adopt and submit the county transportation improvement program, in conformance with Sections 130303 and 130304 of that code, to the multicounty-designated transportation planning agency. Other information, including a program for expenditure of local or federal funds, may be submitted for information purposes with the program, but only at the discretion of the transportation planning agencies or the county transportation commissions. As used in this section, "county transportation commission" includes a transportation authority created pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities Code.

(b) The regional transportation improvement program shall include all projects to be funded with the county share under paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways Code. The regional programs shall be limited to projects to be funded in whole or in part with the county share that shall include all projects to receive allocations by the commission during the following five fiscal years. For each project, the total expenditure for each project component and the total amount of commission allocation and the year of allocation shall be stated. The total cost of projects to be funded with the county share shall not exceed the amount specified in the fund estimate made by the commission pursuant to Section 14525.

(c) The regional transportation planning agencies and county transportation commissions may recommend projects to improve state highways with the interregional share pursuant to subdivision (b) of Section 164 of the Streets and Highways Code. The recommendations shall be separate and distinct from the regional transportation improvement program. A project recommended for funding pursuant to this subdivision shall constitute a usable segment and shall not be a

condition for inclusion of other projects in the regional transportation improvement program.

(d) The department may nominate or recommend the inclusion of projects in the regional transportation improvement program to improve state highways with the county share pursuant to paragraph (2) of subdivision (a) and subdivision (e) of Section 164 of the Streets and Highways Code. A regional transportation planning agency and a county transportation commission shall have sole authority for determining whether any of the project nominations or recommendations are accepted and included in the regional transportation improvement program adopted and submitted pursuant to this section. This authority provided to a regional transportation planning agency or to a county transportation commission extends only to a project located within its jurisdiction.

(e) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and shall be consistent with, and provide the information required in, subdivision (b) of Section 14529.

(f) The regional transportation improvement program may not change the project delivery milestone date of any project as shown in the prior adopted state transportation improvement program without the consent of the department or other agency responsible for the project's delivery.

(g) Projects may not be included in the regional transportation improvement program without a complete project study report or, for a project that is not on a state highway, a project study report equivalent or major investment study.

(h) Each transportation planning agency and county transportation commission may request and receive an amount not to exceed 5 percent of its county share for the purposes of project planning, programming, and monitoring.

CHAPTER 822

An act to amend Section 69436 of the Education Code, relating to student financial aid.

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

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

SECTION 1. Section 69436 of the Education Code, as amended by Section 3 of Chapter 43 of the Statutes of 2006, is amended to read:

69436. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a student who was not awarded a Cal Grant A or B award pursuant to Article 2 (commencing with Section 69434) or Article 3 (commencing with Section 69435) at the time of his or her high school graduation but, at the time of transfer from a California community college to a qualifying baccalaureate program, meets all of the criteria set forth in subdivision (b), shall be entitled to a Cal Grant A or B award.

(b) Any California resident transferring from a California community college to a qualifying institution that offers a baccalaureate degree is entitled to receive, and the commission shall award, a Cal Grant A or B award depending on the eligibility determined pursuant to subdivision (c), if all of the following criteria are met:

(1) A complete official financial aid application has been submitted or postmarked pursuant to Section 69432.9, no later than the March 2 of the year immediately preceding the award year.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student has earned a community college grade point average of at least 2.4 on a 4.0 scale and is eligible to transfer to a qualifying institution that offers a baccalaureate degree.

(4) The student's household has an income and asset level not exceeding the limits set forth in Section 69432.7.

(5) The student is pursuing a baccalaureate degree that is offered by a qualifying institution.

(6) He or she is enrolled at least part time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(8) The student will not be 28 years of age or older by December 31 of the award year.

(9) The student graduated from a California high school or its equivalent during or after the 2000–01 academic year.

(c) The amount and type of the award pursuant to this article shall be determined as follows:

(1) For applicants with income and assets at or under the Cal Grant A limits, the award amount shall be the amount established pursuant to Article 2 (commencing with Section 69434).

(2) For applicants with income and assets at or under the Cal Grant B limits, the award amount shall be the amount established pursuant to Article 3 (commencing with Section 69435).

(d) (1) Commencing with the 2006–07 award year, a student meeting the requirements of paragraph (9) of subdivision (b) by means of high school graduation, rather than its equivalent, shall be required to have graduated from a California high school, unless that California resident graduated from a high school outside of California due solely to orders

received from a branch of the United States Armed Forces by that student or by that student's parent or guardian that required that student to be outside of California at the time of high school graduation.

(2) For the purposes of this article, both of the following are exempt from the requirements of subdivision (e) of Section 69433.9 and paragraph (9) of subdivision (b) of this section:

(A) A student for whom a claim under this article was paid prior to December 1, 2005.

(B) A student for whom a claim under this article for the 2004–05 award year or the 2005–06 award year was or is paid on or after December 1, 2005, but no later than October 15, 2006.

(3) (A) Commencing with the 2006–07 award year, the commission shall make preliminary awards to all applicants currently eligible for an award under this article. At the time an applicant receives a preliminary award, the commission shall require that applicant to affirm, in writing, under penalty of perjury, that he or she meets the requirements set forth in subdivision (e) of Section 69433.9, paragraph (9) of subdivision (b) of this section, and paragraph (1) of this subdivision. The commission shall notify each person who receives a preliminary award under this paragraph that his or her award is subject to an audit pursuant to subparagraph (B).

(B) The commission shall select, at random, a minimum of 10 percent of the new and renewal awards made under subparagraph (A), and shall require, prior to the disbursement of Cal Grant funds to the affected postsecondary institution, that the institution verify that the recipient meets the requirements of subdivision (e) of Section 69433.9, paragraph (9) of subdivision (b) of this section, and paragraph (1) of this subdivision. An award that is audited under this paragraph and found to be valid shall not be subject to a subsequent audit.

(C) Pursuant to Section 69517.5, the commission shall seek repayment of any and all funds found to be improperly disbursed under this article.

(D) On or before November 1 of each year, the commission shall submit a report to the Legislature and the Governor including, but not necessarily limited to, both of the following:

(i) The number of awards made under this article in the preceding 12 months.

(ii) The number of new and renewal awards selected, in the preceding 12 months, for verification under subparagraph (B), and the results of that verification with respect to students at the University of California, at the California State University, at independent nonprofit institutions, and at independent for-profit institutions.

CHAPTER 823

An act to amend, repeal, and add Section 4830 of the Business and Professions Code, relating to veterinary medicine.

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

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

SECTION 1. Section 4830 of the Business and Professions Code is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when, in the course of their duties, they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(8) Veterinarians employed by a city, city and county, or county who meet all of the following criteria:

(A) They have earned and possess a doctorate in veterinary medicine from an American Veterinary Medical Association-accredited college of veterinary medicine, or they possess a degree in veterinary medicine from a non-American Veterinary Medical Association-accredited college of veterinary medicine and possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates or a certificate issued by the Program for Assessment of Veterinary Equivalence, or they have achieved board certification from the American College of Veterinary Pathologists.

(B) They have successfully completed a residency approved by the American College of Veterinary Pathologists.

(C) They are conducting activities, under the direct supervision of a California licensed veterinarian, related to pathology and epidemiology on dead animals as part of a government program to monitor a disease or a disease-related condition or to investigate, control, or eradicate a disease.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Section 4830 is added to the Business and Professions Code, to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of

Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) This section shall become operative on January 1, 2011.

CHAPTER 824

An act to repeal and add Section 201.5 of the Labor Code, relating to employment.

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

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

SECTION 1. Section 201.5 of the Labor Code is repealed.

SEC. 2. Section 201.5 is added to the Labor Code, to read:

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

(1) "An employee engaged in the production or broadcasting of motion pictures" means an employee to whom both of the following apply:

(A) The employee's job duties relate to or support the production or broadcasting of motion pictures or the facilities or equipment used in the production or broadcasting of motion pictures.

(B) The employee is hired for a period of limited duration to render services relating to or supporting a particular motion picture production or broadcasting project, or is hired on the basis of one or more daily or weekly calls.

(2) "Daily or weekly call" means an employment that, by its terms, will expire at the conclusion of one day or one week, unless renewed.

(3) "Next regular payday" means the day designated by the employer, pursuant to Section 204, for payment of wages earned during the payroll period in which the termination occurs.

(4) "Production or broadcasting of motion pictures" means the development, creation, presentation, or broadcasting of theatrical or televised motion pictures, television programs, commercial advertisements, music videos, or any other moving images, including, but not limited to, productions made for entertainment, commercial, religious, or educational purposes, whether these productions are presented by means of film, tape, live broadcast, cable, satellite transmission, Web cast, or any other technology that is now in use or may be adopted in the future.

(b) An employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of the termination by the next regular payday.

(c) The payment of wages to employees covered by this section may be mailed to the employee or made available to the employee at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee's wages are mailed to the employee or made available to the employee at the location specified by the employer, whichever is earlier.

(d) For purposes of this section, an employment terminates when the employment relationship ends, whether by discharge, lay off, resignation, completion of employment for a specified term, or otherwise.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement from establishing alternative provisions for final payment of wages to employees covered by this section if those provisions do not exceed the time limitation established in Section 204.

CHAPTER 825

An act to amend Sections 3317, 3322, 3332, and 3333 of the Food and Agricultural Code, relating to the Board of Directors of the California Exposition and State Fair, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 3317 of the Food and Agricultural Code is amended to read:

3317. The two Members of the Legislature who represent the Assembly and Senate district in which the California Exposition and State Fair facilities are located and the chairperson and vice chairperson of the Joint Committee on Fairs Allocation and Classification shall meet with and, except as otherwise provided by the Constitution, advise the board to the extent that such advisory participation is not incompatible with their duties as Members of the Legislature.

SEC. 2. Section 3322 of the Food and Agricultural Code is amended to read:

3322. (a) The following officers of the California Exposition and State Fair shall be appointed by the Governor, pursuant to Section 4 of Article VII of the California Constitution, upon recommendation of the board:

(1) Deputy general manager.

(2) Program manager.

(3) Marketing manager.

(b) The state officers appointed pursuant to subdivision (a) shall serve at the pleasure of the board, under the direction of the general manager.

SEC. 3. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board may do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in

accordance with Sections 16506 and 16605 of the Government Code, for depositing funds received by the California Exposition and State Fair. Notwithstanding Section 13340 of the Government Code, all funds maintained in an account authorized by this subdivision are continuously appropriated to the board, without regard to fiscal year, to carry out this part.

(e) Establish a program for paying vendors who contract with the California Exposition and State Fair.

(f) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair. Notwithstanding Section 14, any orders, rules, or regulations adopted by the board are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For informational purposes only, however, any order, rule, or regulation adopted by the board may be transmitted to the Office of Administrative Law for filing with the Secretary of State pursuant to Section 11343 of the Government Code.

(g) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures. The board may also delegate to officers and employees of the California Exposition and State Fair the independent authority to appoint marshals and police as authorized by subdivision (j).

(h) Operate a payroll system for paying employees, and a system for accounting for vacation and sick leave credits of employees.

(i) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(j) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.2 of the Penal Code. A peace officer of the Department of the California Highway Patrol may be employed as a peace officer while off duty from his or her regular employment, subject to those conditions as may be set forth by the Commissioner of the Department of the California Highway Patrol. At least 75 percent of the persons appointed pursuant to this subdivision shall possess the basic certificate issued by the Commission on Peace Officers Standards and Training. The remaining 25 percent may be appointed if the person has completed a Peace Officer Standards and Training-certified academy, or possesses a Level One Reserve Certificate (as defined in Section 832.6 of the Penal Code). Of this 25 percent, any portion may be comprised of probation

officers certified under Section 832. Nothing in this subdivision shall be construed to give probation officers appointed pursuant to this subdivision peace officer powers pursuant to Section 830.2 of the Penal Code.

(k) With the approval of the Department of General Services, purchase, acquire, or hold real or personal property, and beautify or improve that property. Any acquisition of land or other real property is subject to the approval of the Department of General Services, and in the case of the purchase of real property, is subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(*l*) With the approval of the Department of General Services, make permanent improvements upon publicly owned real property adjacent to, or near the vicinity of, the real property of the California Exposition and State Fair when the improvements materially benefit the property of the California Exposition and State Fair.

(m) Lease, with the approval of the Department of General Services, any of its property for any purpose for any period of time.

(n) Use or manage any of its property, with the approval of the Department of General Services, jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

(o) With the approval of the Department of General Services, pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to such terms and conditions as are approved by the board. Any issuance of bonds, contracts entered into, debts incurred, settlements, judgments, or liens under this section or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. Any such bond shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on this bond."

SEC. 4. Section 3333 of the Food and Agricultural Code is amended to read:

3333. The board shall submit a report to the Legislature and Governor on or before May 31st of each year with respect to the financial condition, present operations, and future planned activities of the California Exposition and State Fair.

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 preserve and enhance the operational integrity of the California Exposition and State Fair in Sacramento, and to ensure that probation officers may be employed as police officers to assist the California State Fair Police Department in keeping order and preserving peace at the annual State Fair commencing August 11, 2006, it is necessary that this act go into immediate effect.

CHAPTER 826

An act to add Section 1389.5 to the Health and Safety Code, and to add Section 10119.1 to the Insurance Code, relating to health care coverage.

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

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

SECTION 1. Section 1389.5 is added to the Health and Safety Code, to read:

1389.5. (a) This section shall apply to a health care service plan that provides coverage under an individual plan contract that is issued, amended, delivered, or renewed on or after January 1, 2007.

(b) At least once each year, the health care service plan shall permit an individual who has been covered for at least 18 months under an individual plan contract to transfer, without medical underwriting, to any other individual plan contract offered by that same health care service plan that provides equal or lesser benefits, as determined by the plan.

"Without medical underwriting" means that the health care service plan shall not decline to offer coverage to, or deny enrollment of, the individual or impose any preexisting condition exclusion on the individual who transfers to another individual plan contract pursuant to this section.

(c) The plan shall establish, for the purposes of subdivision (b), a ranking of the individual plan contracts it offers to individual purchasers and post the ranking on its Internet Web site or make the ranking available upon request. The plan shall update the ranking whenever a new benefit design for individual purchasers is approved.

(d) The plan shall notify in writing all enrollees of the right to transfer to another individual plan contract pursuant to this section, at a minimum,

when the plan changes the enrollee's premium rate. Posting this information on the plan's Internet Web site shall not constitute notice for purposes of this subdivision. The notice shall adequately inform enrollees of the transfer rights provided under this section, including information on the process to obtain details about the individual plan contracts available to that enrollee and advising that the enrollee may be unable to return to his or her current individual plan contract if the enrollee transfers to another individual plan contract.

(e) The requirements of this section shall not apply to the following:

(1) A federally eligible defined individual, as defined in subdivision (c) of Section 1399.801, who is enrolled in an individual health benefit plan contract offered pursuant to Section 1366.35.

(2) An individual offered conversion coverage pursuant to Section 1373.6.

(3) Individual coverage under a specialized health care service plan contract.

(4) An individual enrolled in the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000) of Division 9 of Part 3 of the Welfare and Institutions Code.

(5) An individual enrolled in the Access for Infants and Mothers Program pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(6) An individual enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code.

(f) It is the intent of the Legislature that individuals shall have more choice in their health coverage when health care service plans guarantee the right of an individual to transfer to another product based on the plan's own ranking system. The Legislature does not intend for the department to review or verify the plan's ranking for actuarial or other purposes.

SEC. 2. Section 10119.1 is added to the Insurance Code, to read:

10119.1. (a) This section shall apply to a health insurer that covers hospital, medical, or surgical expenses under an individual health benefit plan, as defined in subdivision (a) of Section 10198.6, that is issued, amended, renewed, or delivered on or after January 1, 2007.

(b) At least once each year, a health insurer shall permit an individual who has been covered for at least 18 months under an individual health benefit plan to transfer, without medical underwriting, to any other individual health benefit plan offered by that same health insurer that provides equal or lesser benefits as determined by the insurer.

"Without medical underwriting" means that the health insurer shall not decline to offer coverage to, or deny enrollment of, the individual

or impose any preexisting condition exclusion on the individual who transfers to another individual health benefit plan pursuant to this section.

(c) The insurer shall establish, for the purposes of subdivision (b), a ranking of the individual health benefit plans it offers to individual purchasers and post the ranking on its Internet Web site or make the ranking available upon request. The insurer shall update the ranking whenever a new benefit design for individual purchasers is approved.

(d) The insurer shall notify in writing all insureds of the right to transfer to another individual health benefit plan pursuant to this section, at a minimum, when the insurer changes the insured's premium rate. Posting this information on the insurer's Internet Web site shall not constitute notice for purposes of this subdivision. The notice shall adequately inform insureds of the transfer rights provided under this section including information on the process to obtain details about the individual health benefit plans available to that insured and advising that the insured may be unable to return to his or her current individual health benefit plan if the insured transfers to another individual health benefit plan.

(e) The requirements of this section shall not apply to the following:

(1) A federally eligible defined individual, as defined in subdivision (e) of Section 10900, who purchases individual coverage pursuant to Section 10785.

(2) An individual offered conversion coverage pursuant to Sections 12672 and 12682.1.

(3) An individual enrolled in the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(4) An individual enrolled in the Access for Infants and Mothers Program, pursuant to Part 6.3 (commencing with Section 12695).

(5) An individual enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693).

(f) It is the intent of the Legislature that individuals shall have more choice in their health care coverage when health insurers guarantee the right of an individual to transfer to another product based on the insurer's own ranking system. The Legislature does not intend for the department to review or verify the insurer's ranking for actuarial or other purposes.

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 827

An act to add Chapter 12 (commencing with Section 5860) to Division 5 of the Public Resources Code, relating to natural resources.

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

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

SECTION 1. Chapter 12 (commencing with Section 5860) is added to Division 5 of the Public Resources Code, to read:

Chapter 12. California Natural Landmarks Program

5860. The Legislature finds and declares all of the following:

(a) The procedures in this chapter set forth the processes and criteria for identifying, evaluating, designating, and monitoring California natural landmarks.

(b) The California Natural Landmarks Program focuses attention on areas of exceptional natural value to the state as a whole rather than to one particular region or locality. The program encourages the owners of California natural landmarks to voluntarily observe preservation precepts.

(c) The California Natural Landmarks Program identifies and preserves natural areas that best illustrate the biological and geological character of the state, enhances the scientific and educational values of preserved areas, strengthens public appreciation of natural history, and fosters a greater concern for the conservation of the state's heritage.

(d) Many of the state's most important biological, ecological, and geological features are found either partly or entirely on privately owned land.

(e) There is a need to recognize and promote private as well as public stewardship of natural resources for the public benefit.

(f) It is the intent of the State of California through the California Natural Landmarks Program to recognize and promote partnerships resulting in the stewardship of natural resources on privately and publicly owned land.

5861. As used in this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "California natural landmark" means property designated by the director as being of state significance to California because it is an outstanding example of major biological and geological features found within the boundaries of the state.

(b) "California Registry of Natural Landmarks" means the official listing of all designated California natural landmarks.

(c) "Department" means the Department of Parks and Recreation.

(d) "Director" means the Director of Parks and Recreation.

(e) "Natural region" means a distinct physiographic province having similar geologic history, structures, and land forms. The basic physiographic characteristics of a natural region influence its vegetation, climate, soils, and animal life.

(f) (1) "Owner" means the person, corporation, or partnership that holds fee simple title to real property, or its agent, or the head of the public agency or subordinate employee of the public agency to whom that authority is delegated, who is responsible for administering publicly owned land and who has presented satisfactory evidence of his or her legal right to represent the interests of the subject land.

(2) "Owner" does not include a person, partnership, corporation, or public agency that holds, in any form, an easement or less than a fee interest, including any leasehold that is not tantamount to fee ownership, or does not have authority to act on behalf of the property.

(3) (A) A Native American tribe that is the beneficial fee simple owner of real property, with the United States as trustee, is an owner of real property for the purposes of this chapter.

(B) A member of a Native American tribe who is the beneficial owner of real property, held in trust by the United States, is an owner of real property for the purposes of this chapter.

(g) "Potential California natural landmark" means property that, based on a recommendation or initial comparison with other properties within the state or in the same natural region, could merit further study of its qualifications for possible California natural landmark designation.

(h) "Prejudicial procedural error" means a procedural error that reasonably may be considered to have affected the outcome of the designation process.

(i) "Real property" for the purposes of this chapter shall not include land owned by the federal government, unless the agency owning the land requests its inclusion, and the director determines that its inclusion is feasible and in the best interests of the program.

(j) "Representative" means a public or private individual, agency, or organization that is performing actions related to the identification,

evaluation, designation, or monitoring of a California natural landmark, on behalf of or in cooperation with the department, either under a contractual agreement or in a volunteer capacity.

(k) "Scientist" means a person whose combination of academic training and professional field experience in the natural region qualifies him or her to identify and comparatively evaluate a natural area at the regional or state level.

(*l*) "State significance" means property that is one of the best examples of a biological community or geological feature within a natural region of the state, including a terrestrial community, land form, geological feature and process, habitat of native plant and animal species, or fossil evidence of the development of life.

5862. (a) Designation of property by the director as a California natural landmark does not change the property's ownership and does not dictate activity.

(b) Designation as a California natural landmark does not require, mandate, or authorize, under state law, any further state or local planning, zoning, or other land-use action or decision.

(c) An owner who agrees to have his or her property designated as a California natural landmark does not give up without his or her consent, under state law, any legal rights and privileges of ownership or use of the property.

(d) The department does not gain a property interest in a California natural landmark by virtue of that designation.

5863. (a) Except as provided in Section 5872, a potential California natural landmark shall be identified only in the following manner:

(1) An owner may request the department to designate his or her property as a California natural landmark. If the designation is proposed to apply to multiple properties, the proposal shall include the written consent of the owners of all included properties.

(2) (A) Upon the owner initiating a request pursuant to paragraph (1), the department shall prepare an estimate of the cost of studies to determine whether the property qualifies as a California natural landmark; the department's costs, including administrative and staffing costs, in determining whether to designate the property as a California natural landmark; and any other costs attributed to making those determinations. The department shall also prepare a list of scientists qualified to do any studies required to determine whether the property should be designated as a California natural landmark. The list shall include both scientists employed by the state and scientists not employed by the state. A qualified scientist shall be familiar with the natural region and its types of biological and geological features.

(B) The revenues collected pursuant to this section shall be deposited in the Natural Landmarks Program Administration Fund, which is hereby created as a special fund in the State Treasury. The department may expend the moneys in the fund, upon appropriation by the Legislature, for the purpose of administering the California Natural Landmarks Program.

(3) (A) An owner who initiates a request to designate his or her property as a California natural landmark is responsible for all costs of determining whether the property qualifies for that designation, as well as any costs of actual designation, including the costs of the department.

(B) (i) If the owner accepts the estimate prepared pursuant to paragraph (2), and wishes to continue with the request for his or her property to be designated as a California natural landmark, he or she shall agree in writing to pay the costs estimated by the department pursuant to paragraph (2) and choose a scientist from the list prepared by the department pursuant to subparagraph (A) of paragraph (2) to do any required studies. The department may require the owner to post security for costs he or she has agreed in writing to pay pursuant to this section.

(ii) The owner may at any time cancel his or her request for California natural landmark designation and any studies being conducted pursuant to that request, and is responsible only for costs incurred in pursuit of that designation prior to the cancellation. If the owner cancels his or her request for California natural landmark designation, or the designation is denied, information already submitted or developed at the expense of the owner shall be returned to him or her.

(b) (1) The department, as well as any scientist performing studies required by the department to make a determination of whether to designate property as a California natural landmark, shall obtain the owner's permission before entering the owner's property for purposes of this chapter, except when the property is publicly owned and open to the public. The owner shall not unreasonably withhold permission.

(2) The department may make a determination regarding the property, required by this chapter, using other information, including information that was previously gathered by other federal or California agencies or gained from other scientific studies. The department shall notify the owner if it makes a determination regarding his or her property from existing information that does not require the department to enter the owner's property.

5864. (a) The department shall use the state significance criteria in Section 5868 to evaluate the potential California natural landmark. The department shall evaluate the potential California natural landmark on a statewide and regional basis, and may compare similar areas that

represent a particular type of feature located in the same natural region to identify examples that are among the most illustrative and have the most integrity.

(b) The evaluation required by subdivision (a) shall be performed by the scientist chosen by the owner pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 5863. The scientist shall make a detailed description of the area, and assess its statewide and regional standing using the state significance criteria in Section 5868 and any additional information provided by the department.

(c) At least three peer reviewers, who are scientists familiar with the biological or geological features of the area or natural region, shall review the evaluation completed pursuant to subdivision (b). The peer reviewers shall provide the department with information on the scientific merit and strength of supportive documentation in the evaluation.

5865. (a) On the basis of the evaluation and the findings of the peer reviewers, made pursuant to Section 5864, the department shall determine either that the property does or does not appear to qualify for California natural landmark designation or that it requires additional information before a decision regarding the property's designation as a California natural landmark can be made.

(b) If the department determines that the property does not appear to qualify for California natural landmark designation, the department shall notify the owner in writing of that determination, including reasons therefor.

(c) (1) If the department determines that the property meets the state significance criteria in Section 5868, the department shall notify the owner in writing of that determination. The department shall include in the notice, all of the following:

(A) The procedures that the department follows in making its determination.

(B) The effect of California natural landmark designation, as defined in Section 5861 and as described in Section 5862.

(C) A copy of the evaluation made pursuant to subdivision (b) of Section 5864.

(D) An opportunity for the owner to comment.

(2) (A) The department shall also notify appropriate interested parties of the determination as the director deems appropriate, including all of the following:

(i) The executive of both the city and county in which the property is located.

(ii) The Governor.

(iii) Members of the Legislature who represent the district in which the property is located.

(B) The notice shall include both of the following:

(i) The procedures that the department follows in making its determination.

(ii) The effect of California natural landmark designation, as described in Section 5862.

(3) Notification of and receipt of any comments pursuant to this section are the department's responsibility, and the department shall not delegate that responsibility to a representative.

5866. (a) The department shall review all documentation related to designation of the property as a California natural landmark, including, but not limited to, the evaluation and peer review findings made pursuant to Section 5864 and comments received pursuant to Section 5865, to determine whether the property meets the state significance criteria in Section 5868.

(b) If the department determines that the property does not meet the state significance criteria in Section 5868, the department shall notify the owner in writing, as well as interested parties notified pursuant to subparagraph (A) of paragraph (2) of subdivision (c) of Section 5865, that the property is no longer being considered for California natural landmark designation.

(c) The director shall review the documentation specified in subdivision (a) that demonstrates that the property meets the state significance criteria in Section 5868.

5867. (a) If the director determines that the requirements of this chapter are met for California natural landmark designation, including the consent of the owner to that designation, the director shall designate the property as a California natural landmark.

(1) If the director designates the property as a California natural landmark, the department shall notify the owner, as well as interested parties notified pursuant to subparagraph (A) of paragraph (2) of subdivision (c) of Section 5865, of that designation.

(2) The property shall be added to the California Registry of Natural Landmarks.

(b) (1) If the owner of the property requests it, after the director designates the property as a California natural landmark, the department may provide the owner, at no cost to the owner, with a certificate, signed by the director, that recognizes the owner's interest in protecting and managing the property in a manner that prevents the loss or deterioration of the values on which California natural landmark designation is based.

(2) The department may also provide, at the cost of the owner, a plaque for display in or near the California natural landmark. Upon the owner's request, and to the extent the department's resources permit, the department may help arrange and participate in a presentation

ceremony. After presentation of a plaque, the department retains ownership of the plaque. If the California natural landmark designation is rescinded, the department may reclaim the plaque.

(3) By accepting a certificate or plaque, the owner does not give up any of the rights or privileges of ownership or use of the California natural landmark, and the department does not acquire any interest in the California natural landmark.

5868. Property may be considered for designation if its significant features are either of natural origin and remain largely wild and undisturbed, or have the salient characteristics of natural features, including function and appearance, but have been subject to human intervention or use. The department shall use the following criteria to evaluate whether a property is one of state significance:

(a) Primary criteria for a specific type of natural feature is the main basis for selection of property as being of state significance. Primary criteria consist of both of the following:

(1) Illustrative character, which requires the property to exhibit a combination of well-developed components that are recognized in the appropriate scientific literature as characteristic of a particular type of natural feature. Generally, the property should be unusually illustrative, rather than merely statistically representative.

(2) Present conditions, which require that the integrity of the significant features of the property has been maintained, enhanced, or restored.

(b) Secondary criteria may be used to supplement the comparison of two or more similar properties pursuant to the primary criteria specified in subdivision (a). Secondary criteria consist of all of the following:

(1) Diversity, which requires property, in addition to its primary natural feature, to contain high quality examples of other biological or geological features or processes.

(2) Rarity, which requires property, in addition to its primary natural feature, to contain rare geological or paleontological features or natural communities, or to provide high quality habitat for one or more rare, threatened, or endangered species.

(3) Value for science and education, which requires the property to contain known or potential information as a result of its association with a significant scientific discovery, concept, or exceptionally extensive and long-term record of onsite research, with the result that the property offers unusual opportunity for public interpretation of the natural history of the state.

5869. (a) (1) The department may modify California natural landmark boundaries, or revise information about a California natural landmark, if it determines that modification or revision is necessary.

Before considering a proposed modification or revision, the department shall consult with the affected owner.

(2) (A) Federal, state, or local agencies, as well as other public and private organizations or individuals, may suggest to the department modifications of California natural landmark boundaries or revisions of information about a California natural landmark.

(B) The department shall determine the validity of a suggestion made pursuant to subparagraph (A) by applying the state significance criteria in Section 5868 or by conducting additional studies.

(b) Before the department expands the boundaries of a California natural landmark, it shall determine that one of the following apply:

(1) There is better documentation of the extent of features of state significance.

(2) There was professional error in the original designation of the California natural landmark.

(3) The owner of the land included in the proposed expansion has requested that their property be included in the California natural landmark.

(c) If the department determines that expansion of a California natural landmark's boundaries is appropriate, the department shall use the designation process outlined in Sections 5864, 5865, and 5866 to expand the boundaries. All of the owners of the property into which the boundaries are expanded, as well as the owner of the previously designated property, are required to agree to the expansion.

(d) Before the department reduces the boundaries of a California natural landmark, it shall determine that one of the following apply:

(1) There has been loss of integrity of the natural features of the California natural landmark, but not to the extent that requires the rescission of the landmark designation.

(2) There was professional error in the original designation of the California natural landmark.

(3) A landowner has requested the reduction or rescission of designation.

(e) If the department determines that reduction of a California natural landmark's boundaries is appropriate, the department shall follow the designation rescission process specified in Section 5870.

(f) (1) If the department determines, with the consent of the owner, that a change in the description of a California natural landmark's values of state significance is appropriate, the department shall prepare the recommended changes.

(2) The director shall review the information and based on that information may approve changes in the description of the California natural landmark's values of state significance.

(g) (1) The director may approve minor technical corrections to the boundaries of a California natural landmark, as well as other administrative changes in landmark documentation not covered in subdivisions (a) to (f), inclusive.

(2) For purposes of paragraph (1), minor technical boundary corrections are those that involve a change in less than 5 percent of the total area of the California natural landmark, and to which the owner of the California natural landmark agrees.

(3) The department shall notify the owner of a California natural landmark for which minor technical boundary corrections or other administrative changes in documentation are being considered. Based on the owner's response to the notification, the department shall determine whether the proposed change is a minor technical correction to landmark documentation that can be made administratively.

5870. (a) The department shall rescind a California natural landmark designation if one or more of the following circumstances apply:

(1) The owner of a California natural landmark requests the department to rescind that designation.

(2) An error in professional judgment was made in such a manner that the site did not meet the criteria for state significance at the time it was designated.

(3) The values that originally qualified the California natural landmark for designation have been significantly degraded, lost, or destroyed, as demonstrated by evidence provided to the director.

(4) Applicable designation procedures were not followed because of prejudicial procedural error.

(b) (1) An owner of a California natural landmark may initiate rescission of the designation by submitting to the director a request for rescission of designation, stating the reason therefor. Upon a determination that the request is complete, the designation shall either be rescinded pursuant to the procedures of this section or, if the landmark has other owners as well, its boundaries shall be amended pursuant to Section 5869 and this section to exclude the owner's land.

(2) Within 60 days of receiving a rescission request, the director shall notify the person who submitted the request of whether the department considers the documentation sufficient to consider rescission of California natural landmark designation, or whether the boundaries will be amended to exclude the owner's land.

(c) The department shall review the information outlining the grounds for rescission of California natural landmark status. When the department determines it is necessary, an onsite evaluation of the area may be made, using the procedure described in Sections 5863 and 5864. Based on all

available information, the department shall determine whether the California natural landmark no longer merits that designation.

(d) (1) If the department determines that a California natural landmark no longer merits that designation, the department shall notify the owner and interested parties specified in subparagraph (A) of paragraph (2) of subdivision (c) of Section 5865.

(2) (A) The owner and other interested parties notified pursuant to paragraph (1) may comment within 60 days of the date of the notice.

(B) The director shall consider all comments received pursuant to subdivision (A) in the review and decision to rescind California natural landmark designation.

(e) The director shall review the information about a recommended rescission of the California natural landmark designation and determine whether the procedural requirements of this section have been met. If the director confirms that those requirements have been met and that one or more of the circumstances specified in subdivision (a) apply, he or she shall rescind the designation and remove the property from the California Registry of Natural Landmarks. Any property from which designation as a California natural landmark is rescinded because of prejudicial procedural error described in paragraph (4) of subdivision (a) continues to meet the criteria for state significance.

(f) If a California natural landmark is removed from the California Registry of Natural Landmarks, the department shall notify in writing the owner of the landmark and interested parties specified in subparagraph (A) of paragraph (2) of subdivision (c) of Section 5865. The department may reclaim a California natural landmark plaque when a landmark is removed from the California Registry of Natural Landmarks.

5871. (a) The department may enter into a contract or other type of agreement with another state agency, federal agency, local agency, private organization, owner, Native American tribal government, or other interested individual or group, to assist in administering the California Natural Landmarks Program. The contract or agreement may include, but is not limited to, provisions about identification, evaluation, or monitoring a California natural landmark. However, any contract or agreement shall not authorize an entity, other than the department, to administer the provisions of this act with respect to an individual natural landmark, without the consent of the owner of the property included within the landmark.

(b) The department may conduct educational and scientific activities to disseminate information on California natural landmarks, the California Natural Landmarks Program, and benefits derived from systematic surveys of significant natural features, to the general public, interested

local, state, and federal agencies, and private groups. The department may restrict information on ecologically or geologically fragile or sensitive areas, if release of that information may endanger or harm the sensitive resources.

(c) The owner of a designated California natural landmark may disseminate information about the property's status as a natural landmark in educational and other potential materials.

5872. Notwithstanding any other provision of law, in order to facilitate the cost-effective use of the program with respect to interpretive activities for its own lands, the department may develop and adopt streamlined and expedited procedures for designating property that it owns as a California natural landmark.

5873. (a) Designation of an area as a California natural landmark shall not constitute a change in the environment, as defined by Section 21060.5, and designation of an area as a California natural landmark is not a project pursuant to Division 13 (commencing with Section 21000).

(b) An action by the director or the department pursuant to this chapter modifying or rescinding the designation of a California natural landmark shall be exempt from the requirements of Division 13 (commencing with Section 21000).

(c) If the designation of an area as a natural landmark is referenced or referred to in a document prepared pursuant to Division 13 (commencing with Section 21000) for a project in or near a designated area, the designation shall not be considered part of the environment pursuant to Section 21060.5, or in evaluating the "significant effect on the environment" of that project pursuant to Section 21068.

CHAPTER 828

An act to amend Sections 1742, 3073.2, 3099, 3099.2, and 3099.4 of the Labor Code, relating to employment.

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

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

SECTION 1. Section 1742 of the Labor Code, as amended by Section 2 of Chapter 685 of the Statutes of 2004, is amended to read:

1742. (a) An affected contractor or subcontractor may obtain review of a civil wage and penalty assessment under this chapter by transmitting a written request to the office of the Labor Commissioner that appears

on the assessment within 60 days after service of the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

(b) Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Labor Commissioner subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

The contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Labor Commissioner. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director shall adopt regulations setting forth procedures for hearings under this subdivision.

(c) An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing,

shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

(f) An awarding body that has withheld funds in response to a civil wage and penalty assessment under this chapter shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.

(g) This section shall provide the exclusive method for review of a civil wage and penalty assessment by the Labor Commissioner under this chapter or the decision of an awarding body to withhold contract payments pursuant to Section 1771.5.

(h) This section shall remain in effect only until January 1, 2009, and as of that date is repealed.

SEC. 2. Section 1742 of the Labor Code, as amended by Section 3 of Chapter 685 of the Statutes of 2004, is amended to read:

1742. (a) An affected contractor or subcontractor may obtain review of a civil wage and penalty assessment under this chapter by transmitting a written request to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

(b) (1) Upon receipt of a timely request, a hearing shall be commenced within 90 days before an administrative law judge appointed by the Director of Industrial Relations. The appointed hearing judge shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Labor Commissioner subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

(2) The contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

(3) Within 45 days of the conclusion of the hearing, the administrative law judge shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the administrative law judge

shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Labor Commissioner. Within 15 days of the issuance of the decision, the administrative law judge may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

(4) The Director of Industrial Relations shall adopt regulations setting forth procedures for hearings under this subdivision.

(c) An affected contractor or subcontractor may obtain review of the decision of the administrative law judge by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

(f) An awarding body that has withheld funds in response to a civil wage and penalty assessment under this chapter shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.

(g) This section shall provide the exclusive method for review of a civil wage and penalty assessment by the Labor Commissioner under this chapter or the decision of an awarding body to withhold contract payments pursuant to Section 1771.5.

(h) This section shall become operative on January 1, 2009.

SEC. 3. Section 3073.2 of the Labor Code is amended to read:

3073.2. (a) The California Apprenticeship Council may adopt industry-specific training criteria for use by apprenticeship programs subject to the requirements of this chapter. The adoption of those criteria,

as established following notice and a workshop pursuant to Section 212.01 of Title 8 of the California Code of Regulations, is not subject to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(b) Audits conducted by the division pursuant to Section 3073.1 shall ensure that any applicable training criteria established pursuant to this section are followed.

(c) 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. 4. Section 3099 of the Labor Code is amended to read:

3099. (a) The Division of Apprenticeship Standards shall do all of the following:

(1) On or before July 1, 2001, establish and validate minimum standards for the competency and training of electricians through a system of testing and certification.

(2) On or before March 1, 2000, establish an advisory committee and panels as necessary to carry out the functions under this section. There shall be contractor representation from both joint apprenticeship programs and unilateral nonunion programs in the electrical contracting industry.

(3) On or before July 1, 2001, establish fees necessary to implement this section.

(4) On or before July 1, 2001, establish and adopt regulations to enforce this section.

(5) Issue certification cards to electricians who have been certified pursuant to this section. Fees collected pursuant to paragraph (3) are continuously appropriated in an amount sufficient to pay the costs of issuing certification cards, and that amount may be expended for that purpose by the division.

(6) On or before July 1, 2003, establish an electrical certification curriculum committee comprised of representatives of the State Department of Education, the California Community Colleges, and the division. The electrical certification curriculum committee shall do all of the following:

(A) Establish written educational curriculum standards for enrollees in training programs established pursuant to Section 3099.4.

(B) If an educational provider's curriculum meets the written educational curriculum standards established in accordance with subparagraph (A), designate that curriculum as an approved curriculum of classroom instruction.

(C) At the committee's discretion, review the approved curriculum of classroom instruction of any designated educational provider. The committee may withdraw its approval of the curriculum if the educational

provider does not continue to meet the established written educational curriculum standards.

(D) Require each designated educational provider to submit an annual notice to the committee stating whether the educational provider is continuing to offer the approved curriculum of classroom instruction and whether any material changes have been made to the curriculum since its approval.

(b) There shall be no discrimination for or against any person based on membership or nonmembership in a union.

(c) As used in this section, "electricians" includes all persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically, contractors classified as electrical contractors in the Contractors' State License Board Rules and Regulations. This section does not apply to electrical connections under 100 volt-amperes. This section does not apply to persons performing work to which Section 7042.5 of the Business and Professions Code is applicable, or to electrical work ordinarily and customarily performed by stationary engineers. This section does not apply to electrical work in connection with the installation, operation, or maintenance of temporary or portable electrical equipment performed by technicians in the theatrical, motion picture production, television, hotel, exhibition, or trade show industries.

SEC. 5. Section 3099.2 of the Labor Code is amended to read:

3099.2. (a) (1) Persons who perform work as electricians shall become certified pursuant to Section 3099 by the deadline specified in this subdivision. After the applicable deadline, uncertified persons may not perform electrical work for which certification is required.

(2) The deadline for certification as a general electrician or fire/life safety technician is January 1, 2006, except that persons who applied for certification prior to January 1, 2006, have until January 1, 2007, to pass the certification examination. The deadline for certification as a residential electrician is January 1, 2007, and the deadline for certification as a voice data video technician or a nonresidential lighting technician is January 1, 2008. The California Apprenticeship Council may extend the certification date for any of these three categories of electricians up to January 1, 2009, if the council concludes that the existing deadline will not provide persons sufficient time to obtain certification, enroll in an apprenticeship or training program, or register pursuant to Section 3099.4.

(3) For purposes of any continuing education or recertification requirement, individuals who become certified prior to the deadline for certification shall be treated as having become certified on the first

anniversary of their certification date that falls after the certification deadline.

(b) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations. Certification is not required for persons performing work for contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(c) The division shall establish separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Bureau of Apprenticeship Training program, or a state apprenticeship program authorized by the federal Bureau of Apprenticeship Training. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.

(h) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

SEC. 6. Section 3099.4 of the Labor Code is amended to read:

3099.4. (a) After the deadline for certification, an uncertified person may perform electrical work for which certification is required under

Section 3099 in order to acquire the necessary on-the-job experience for certification, if all of the following requirements are met:

(1) The person is registered with the Division of Apprenticeship Standards. A list of current registrants shall be maintained by the division and made available to the public upon request.

(2) The person either has completed or is enrolled in an approved curriculum of classroom instruction.

(3) The employer attests that the person shall be under the direct supervision of an electrician certified pursuant to Section 3099 who is responsible for supervising no more than one uncertified person. An employer who is found by the division to have failed to provide adequate supervision may be barred by the division from employing uncertified individuals pursuant to this section in the future.

(b) For purposes of this section, an "approved curriculum of classroom instruction" means a curriculum of classroom instruction approved by the electrician certification curriculum committee established pursuant to paragraph (6) of subdivision (a) of Section 3099 and provided under the jurisdiction of the State Department of Education, the Board of Governors of the California Community Colleges, or the Bureau for Private Postsecondary and Vocational Education.

(c) The curriculum committee may grant approval to an educational provider that presently offers only a partial curriculum if the educational provider intends in the future to offer, or to cooperate with other educational providers to offer, a complete curriculum for the type of certification involved. The curriculum committee may require an educational provider receiving approval for a partial curriculum to periodically renew its approval with the curriculum committee until a complete curriculum is offered and approved. A partial curriculum means a combination of classes that do not include all classroom educational components of the complete curriculum for one of the categories of certification established in accordance with subdivision (c) of Section 3099.2.

(d) An educational provider that receives approval for a partial curriculum must disclose in all communications to students and to the public that the educational provider has only received approval for a partial curriculum and shall not make any representations that the provider offers a complete approved curriculum of classroom instruction as established by subparagraph (A) of paragraph (6) of subdivision (a) of Section 3099.

(e) For purposes of this section, a person is "enrolled" in an approved curriculum of classroom instruction if the person is attending classes on a full-time or part-time basis toward the completion of an approved curriculum.

(f) Registration under this section shall be renewed annually and the registrant shall provide to the division certification of the classwork completed and on-the-job experience acquired since the prior registration.

(g) For purposes of verifying the information provided by a person registered with the division, an educational provider of an approved curriculum of classroom instruction shall, upon the division's request, provide the division with information regarding the enrollment status and instruction completed by a person registered. By registering with the division in accordance with this section, a person consents to the release of this information.

(h) The division shall establish registration fees necessary to implement this section, not to exceed twenty-five dollars ($25) for the initial registration. There shall be no fee for annual renewal of registration. Fees collected are continuously appropriated in an amount sufficient to administer this section and that amount may be expended by the division for this purpose.

(i) The division shall issue regulations to implement this section.

(j) For purposes of Section 1773, persons employed pursuant to this section do not constitute a separate craft, classification, or type of worker.

(k) Notwithstanding any other provision of law, an uncertified person who has completed an approved curriculum of classroom instruction and is currently registered with the division may take the certification examination. The person shall be certified upon passing the examination and satisfactorily completing the requisite number of on-the-job hours required for certification. A person who passes the examination prior to completing the requisite hours of on-the-job experience shall continue to comply with subdivision (f).

CHAPTER 829

An act to add Sections 9103 and 9103.1 to the Welfare and Institutions Code, relating to seniors.

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

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

SECTION 1. Section 9103 is added to the Welfare and Institutions Code, to read:

9103. The Legislature finds and declares all of the following:

(a) Recent studies have shown that lifelong experiences of marginalization place lesbian, gay, bisexual, and transgender (LGBT) seniors at high risk for isolation, poverty, homelessness, and premature institutionalization. Moreover, many LGBT seniors are members of multiple underrepresented groups, and as a result, are doubly marginalized. Due to these factors, many LGBT seniors avoid accessing elder programs and services, even when their health, safety, and security depend on it.

(b) LGBT seniors often lack social and family support networks available to non-LGBT seniors. They may face particular health risks, as disease prevention strategies often ignore LGBT seniors, and HIV and AIDS drug trials generally do not include older participants.

(c) LGBT seniors are denied many vital financial benefits provided to heterosexual married couples. For example, surviving same-sex partners are denied the social security benefits that married couples are provided, and may face heavy taxes on the transfer of assets upon the death of a partner. Moreover, even under California law, LGBT seniors are denied equal long-term care insurance protections. This costs LGBT seniors hundreds of millions of dollars each year in lost benefits.

(d) The number of people 65 years of age and older in California is estimated to double to 6.5 million by the year 2020, thereby increasing the number of LGBT seniors who are receiving inadequate services.

(e) Ensuring that the needs of LGBT seniors as well as other underrepresented groups are adequately assessed during the planning and development of programs and services will increase access to the programs administered by the California Department of Aging and the area agencies on aging.

(f) California leads the nation in the protections it affords to LGBT persons. As failure to meet the needs of LGBT seniors is a problem of national scope, including LGBT seniors and other underrepresented groups in need of assessment and area plan process will help the state to be a model for change in other states and at the federal level.

SEC. 2. Section 9103.1 is added to the Welfare and Institutions Code, to read:

9103.1. (a) The department shall ensure all older adults have equal access to programs and services provided through the Older Americans Act and under this division in each planning and services area, regardless of physical or mental disabilities, language barriers, cultural or social isolation, including that caused by actual or perceived racial and ethnic status, including, but not limited to, African-American, Hispanic, American Indian, and Asian American, ancestry, national origin, religion, sex, gender identity, marital status, familial status, sexual orientation, or any other basis set forth in Section 12921 of the Government Code,

or by association with a person or persons with one or more of these actual or perceived characteristics, that restrict an individual's ability to perform normal daily tasks or that threaten his or her capacity to live independently.

(b) This section is not intended to increase General Fund obligations for programs administered by area agencies on aging.

(c) The department shall require that each area agency on aging include the needs of lesbian, gay, bisexual, and transgender seniors in their needs assessment and area plans.

(d) The department shall provide technical assistance to the area agencies on aging regarding the unique needs of the lesbian, gay, bisexual, and transgender seniors.

(e) The department may adopt regulations to implement this section. If the department determines that adopting regulations is necessary, it shall do so only after consultation with the area agencies on aging and the California Association of Area Agencies on Aging.

CHAPTER 830

An act to add Section 14132.24 to the Welfare and Institutions Code, relating to Medi-Cal.

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

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

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

(a) Medi-Cal eligible persons who are residents of San Francisco, who would otherwise be homeless, living in shelters, or institutionalized, and who reside in community-based housing should have access to crucial health services that may reduce their use of acute psychiatric and medical services or institutionalized long-term care services.

(b) Community-based housing is noninstitutional residential housing linked to either community-based or site-based health-related and psychosocial services.

(c) Under the existing Medi-Cal program, reimbursement for providing an array of health-related and psychosocial services to Medi-Cal eligible residents in assisted living is complicated, is sometimes not available, and, when available, frequently results in the services being provided in more expensive institutional settings.

(d) A designated Medi-Cal reimbursement rate structure for community-living support services that assist beneficiaries who would otherwise be homeless, living in shelters, or institutionalized would expand community-based options for beneficiaries who would otherwise require costly institutional care.

SEC. 2. Section 14132.24 is added to the Welfare and Institutions Code, to read:

14132.24. (a) The department shall develop and implement a program to provide a community-living support benefit to eligible Medi-Cal beneficiaries. The department shall submit any waiver application, modification of any existing waiver, or amendment to the Medicaid state plan, that is necessary to provide this benefit, and shall implement the benefit only to the extent that federal financial participation is available.

(b) The community-living support benefit shall include both of the following:

(1) (A) Reimbursement for an array of health-related and psychosocial services provided or coordinated at community-based housing sites that enable beneficiaries to remain in the least restrictive and most homelike environment while receiving the health-related services, including personal care and psychosocial services, necessary to protect their health and well-being. These community-based housing units may include, but are not limited to, the living area or unit within a facility that is specifically designed to provide ongoing assisted living services, licensed residential care facilities for the elderly, publicly funded senior and disabled housing projects, or supportive housing sites that serve chronically homeless individuals with chronic or disabling health conditions.

(B) For purposes of this section, "assisted living services" includes, but is not limited to, assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychological comfort.

(2) Access to community-living support services provided or coordinated at the community-based housing site, including, but not limited to, the personal care and health services specified in paragraph (8) of subdivision (a) of Section 1788 of the Health and Safety Code, and the health related support services specified in Section 53290 of the Health and Safety Code.

(c) Services available through the community-living support benefit shall not duplicate services available through the Medi-Cal state plan, other Medi-Cal waivers, or other programs financed by the state.

(d) An individual shall be eligible for the community-living support benefit if he or she is eligible for the Medi-Cal program, is a resident of

San Francisco who would otherwise be homeless, living in shelters, or institutionalized, and meets one or both of the following criteria:

(1) The State Department of Mental Health determines that he or she would benefit from supportive housing, as defined in subdivision (c) of Section 53260 of the Health and Safety Code.

(2) The department determines that he or she is eligible for placement in a skilled nursing facility, as defined in subdivision (c) of Section 1250 of the Health and Safety Code, or an intermediate care facility, as defined in subdivision (d) of that section.

(e) The department may modify the eligibility criteria specified in subdivision (d), if needed, to qualify the community-living support benefit for federal financial participation.

(f) The department shall seek to maximize resources for community-based housing by coordinating the community-living support benefit with existing efforts to coordinate care, improve health outcomes, and reduce long-term care costs for the targeted population.

(g) This section shall be implemented only upon adoption of a resolution by the Board of Supervisors of the City and County of San Francisco providing county funds for use by the state to match federal Medicaid funds to receive federal funds for services provided under the waiver specified in this section, and for any costs associated with implementing and monitoring the waiver, to limit additional state costs.

SEC. 3. Due to the unique circumstances facing Medi-Cal recipients in the City and County of San Francisco who reside in community-based housing, the Legislature hereby 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, the special legislation contained within Section 2 of this act is necessarily applicable only to the City and County of San Francisco.

CHAPTER 831

An act to add Section 138.12 to the Water Code, relating to water.

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

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

SECTION 1. Section 138.12 is added to the Water Code, to read:

138.12. (a) Except as otherwise provided in a general obligation bond act, the maximum amount that may be allocated for administrative

expenses shall not exceed 5 percent of the total amount of funds that the department is required to administer and that are derived from a general obligation bond act that is approved on or after January 1, 2007.

(b) The maximum amount that may be allocated for administrative expenses shall not exceed 5 percent of the total amount of funds that result from the sale of revenue bonds by the department.

CHAPTER 832

An act relating to vehicles.

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

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

SECTION 1. (a) It is the intent of the Legislature that the Commissioner of the California Highway Patrol should amend Section 1141 of Title 13 of the California Code of Regulations regarding distinctively painted motor vehicles, including patrol vehicles and motorcycles, used by police and traffic officers to accomplish the enforcement of Sections 23152 and 23153 of the Vehicle Code. There is a current emergency in the County of Alameda regarding the use of distinctively marked patrol vehicles and motorcycles. The dark blue painted patrol vehicles and motorcycles currently used by the Alameda County Sheriff's Office do not meet the specifications of Section 1141 of Title 13 of the California Code of Regulations. Local courts have indicated that they will consider dismissing driving under the influence charges if the defense raises the issue regarding the color of these motor vehicles. It is the intent of the Legislature to ensure that all distinctively painted patrol vehicles and motorcycles used by police and traffic officers in Alameda County, as well as other jurisdictions, are authorized to enforce Sections 23152 and 23153 of the Vehicle Code. Nothing in this section is intended to diminish the ability of the public to identify these vehicles as law enforcement patrol vehicles and motorcycles.

(b) Regulations to address the concerns expressed in subdivision (a) should be adopted by the Commissioner of the California Highway Patrol in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of an amendment to Section 1141 of Title 13 of the California Code of Regulations, as an emergency regulation, is necessary to address an emergency and shall be considered by the Office of Administrative Law

to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

CHAPTER 833

An act to amend Section 56.16 of, and to add Section 56.1007 to, the Civil Code, relating to medical information.

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

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

SECTION 1. Section 56.1007 is added to the Civil Code, to read:

56.1007. (a) A provider of health care, health care service plan, or contractor may, in accordance with subdivision (c) or (d), disclose to a family member, other relative, domestic partner, or a close personal friend of the patient, or any other person identified by the patient, the medical information directly relevant to that person's involvement with the patient's care or payment related to the patient's health care.

(b) A provider of health care, health care service plan, or contractor may use or disclose medical information to notify, or assist in the notification of, including identifying or locating, a family member, a personal representative of the patient, a domestic partner, or another person responsible for the care of the patient of the patient's location, general condition, or death. Any use or disclosure of medical information for those notification purposes shall be in accordance with the provisions of subdivision (c), (d), or (e), as applicable.

(c) (1) Except as provided in paragraph (2), if the patient is present for, or otherwise available prior to, a use or disclosure permitted by subdivision (a) or (b) and has the capacity to make health care decisions, the provider of health care, health care service plan, or contractor may use or disclose the medical information if it does any of the following:

(A) Obtains the patient's agreement.

(B) Provides the patient with the opportunity to object to the disclosure, and the patient does not express an objection.

(C) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the disclosure.

(2) A provider of health care who is a psychotherapist, as defined in Section 1010 of the Evidence Code, may use or disclose medical

information pursuant to this subdivision only if the psychotherapist complies with subparagraph (A) or (B) of paragraph (1).

(d) If the patient is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, the provider of health care, health care service plan, or contractor may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the patient and, if so, disclose only the medical information that is directly relevant to the person's involvement with the patient's health care. A provider of health care, health care service plan, or contractor may use professional judgment and its experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the patient to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of medical information.

(e) A provider of health care, health care service plan, or contractor may use or disclose medical information to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with those entities the uses or disclosures permitted by subdivision (b). The requirements in subdivisions (c) and (d) apply to those uses and disclosures to the extent that the provider of health care, health care service plan, or contractor, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

(f) Nothing in this section shall be construed to interfere with or limit the access authority of Protection and Advocacy, Inc., the Office of Patients' Rights, or any county patients' rights advocates to access medical information pursuant to any state or federal law.

SEC. 2. Section 56.16 of the Civil Code is amended to read:

56.16. For disclosures not addressed by Section 56.1007, unless there is a specific written request by the patient to the contrary, nothing in this part shall be construed to prevent a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, upon an inquiry concerning a specific patient, from releasing at its discretion any of the following information: the patient's name, address, age, and sex; a general description of the reason for treatment (whether an injury, a burn, poisoning, or some unrelated condition); the general nature of the injury, burn, poisoning, or other condition; the general condition of the patient; and any information that is not medical information as defined in subdivision (c) of Section 56.05.

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 834

An act to amend Section 31485.7 of, and to add Sections 21024.5 and 31641.55 to, the Government Code, relating to public employees' retirement, and making an appropriation therefor.

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

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

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

(a) Since 1988, a process known as Base Realignment and Closure, or BRAC, has closed approximately 100 major military installations nationwide. Of the 28 states that have incurred major base closures, California has sustained about 30.

(b) As a result of BRAC, some federal firefighters living in California and working for California-based federal military installations have found their fire service jobs eliminated and their retirement security jeopardized.

(c) Some of these displaced federal firefighters have gone on to work for California's municipal fire departments, thereby enabling their years of training to benefit the citizens of California.

(d) In the event of an emergency, the firefighters who answer the call must be highly trained, qualified public servants. In order to attract skilled, career fire service individuals and thus ensure the public's safety, municipal fire agencies must be afforded the tools necessary to competitively recruit and retain qualified personnel.

(e) Among the current law recruitment and retention tools afforded to municipal governing bodies is the ability for elected officials to grant employees, including firefighters, the option of purchasing certain types of prior public service for credit in the agency's retirement system. To this end, prior public service often includes, for example, service rendered to our nation's military, the Peace Corps or AmeriCorps, or employment financed by the Comprehensive Employment Training Act of 1973, or CETA.

(f) Enhancing a public employer's recruitment and retention tool chest to permit the purchase of past federal firefighter time as prior public service credit in that employer's retirement system would safeguard the retirement security of those municipal firefighters who once served as civilian federal firefighters, but were terminated as a consequence of federal military installation closure or downsizing.

SEC. 2. Section 21024.5 is added to the Government Code, to read:

21024.5. (a) "Public service" with respect to a member who is a local firefighter also means time served, before becoming a member, as a permanent career civilian federal firefighter or permanent career state firefighter in a position whose principal duties consist of active fire suppression or law enforcement and that service was terminated as a direct consequence of the closure, downsizing, or realignment of a federal military installation.

(b) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 3. Section 31485.7 of the Government Code is amended to read:

31485.7. (a) Notwithstanding anything to the contrary in this chapter, a member who elects to purchase retirement service credit under Section 31486.3, 31494.3, 31499.3, 31499.13, 31641.1, 31641.5, 31641.55, 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. 3.5. 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, 31641.55, 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. 4. Section 31641.55 is added to the Government Code, to read:

31641.55. (a) A member described in Section 31470.4 who was in public service before becoming a member, and that service was terminated as a consequence of the closure, downsizing, or realignment of a federal military installation, may elect by written notice filed with

the board to make contributions pursuant to subdivision (b) and to receive credit in the retirement system for all allowed public service time.

(b) Any member described in subdivision (a) who elects pursuant to subdivision (a) to make contributions and receive service credit 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 10 years, an amount equal to the sum of the following:

(1) 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 service credit, 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, multiplied by the number of months for which he or she has elected to receive service credit for public service.

(2) Interest at the current rate, as defined in Section 31641.51, from the date of his or her first membership in the system until the completion of payment of those contributions.

(c) The governing body by a majority vote may provide that it shall make part of the contributions specified in paragraphs (1) and (2) of subdivision (b) on behalf of its members eligible to receive credit for public service under this section who so elect prior to filing an application for retirement.

(d) A member who has elected to make the payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement. Any contributions made by a member pursuant to this section shall be considered and administered as normal contributions by the member.

(e) For purposes of this section, the following definitions shall apply:

(1) Notwithstanding Section 31478, "public agency" means the United States of America, this state, or any department or agency of either, or any city, county, city and county, special district, or other public or municipal corporation or political subdivision that is within this state or is situated in whole or in part within a county.

(2) Notwithstanding Sections 31479, 31479.2, and 31479.3, "public service" means service as a permanent career civilian federal firefighter or permanent career state firefighter in a position whose principal duties consist of active fire suppression or law enforcement, for which the officer or employee received compensation from the public agency, and with respect to which he or she is not entitled to receive credit in any

retirement system supported wholly or in part by public funds after he or she becomes a member of this system.

(f) This section shall apply only to a county or district beginning on the first day of the month after the board of supervisors for that county or the governing body of a district adopts a resolution, by majority vote, that provides that this section shall apply to the county or district.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 31485.7 of the Government Code proposed by both this bill and Assembly Bill No. 2240. 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 31485.7 of the Government Code, and (3) this bill is enacted after Assembly Bill 2240, in which case Section 3 of this bill shall not become operative.

CHAPTER 835

An act to amend Sections 13386, 14601.2, 14601.4, and 14601.5 of the Vehicle Code, relating to vehicles.

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

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

SECTION 1. This act shall be known, and may be cited, as, "Adam's Law."

SEC. 2. Section 13386 of the Vehicle Code is amended to read:

13386. (a) (1) The Department of Motor Vehicles shall certify or cause to be certified ignition interlock devices required by Article 5 (commencing with Section 23575) of Chapter 2 of Division 11.5 and publish a list of approved devices.

(2) (A) The Department of Motor Vehicles shall ensure that ignition interlock devices that have been certified according to the requirements of this section continue to meet certification requirements. The department may periodically require manufacturers to indicate in writing whether the devices continue to meet certification requirements.

(B) The department may use denial of certification, suspension or revocation of certification, or decertification of an ignition interlock device in another state as an indication that the certification requirements are not met, if either of the following apply:

(i) The denial of certification, suspension or revocation of certification, or decertification in another state constitutes a violation by the

manufacturer of Article 2.55 (commencing with Section 125.00) of Chapter 1 of Division 1 of the Title 13 of the California Code of Regulations.

(ii) The denial of certification for an ignition interlock device in another state was due to a failure of an ignition interlock device to meet the standards adopted by the regulation set forth in clause (i), specifically Sections 1 and 2 of the model specification for breath alcohol ignition interlock devices, as published by notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, on pages 11774 to 11787, inclusive.

(C) Failure to continue to meet certification requirements shall result in suspension or revocation of certification of ignition interlock devices.

(b) (1) A manufacturer shall not furnish an installer, service center, technician, or consumer with technology or information that allows a device to be used in a manner that is contrary to the purpose for which it is certified.

(2) Upon a violation of paragraph (1), the department shall suspend or revoke the certification of the ignition interlock device that is the subject of that violation.

(c) An installer, service center, or technician shall not tamper with, change, or alter the functionality of the device from its certified criteria.

(d) The department shall utilize information from an independent laboratory to certify ignition interlock devices on or off the premises of the manufacturer or manufacturer's agent, in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of ignition interlock devices. If the certification of a device is suspended or revoked, the manufacturer of the device shall be responsible for, and shall bear the cost of, the removal of the device and the replacement of a certified device of the manufacturer or another manufacturer.

(e) No model of ignition interlock device shall be certified unless it meets the accuracy requirements and specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration.

(f) All manufacturers of ignition interlock devices that meet the requirements of subdivision (e) and are certified in a manner approved by the Department of Motor Vehicles, who intend to market the devices in this state, first shall apply to the Department of Motor Vehicles on forms provided by that department. The application shall be accompanied by a fee in an amount not to exceed the amount necessary to cover the costs incurred by the department in carrying out this section.

(g) The department shall ensure that standard forms and procedures are developed for documenting decisions and compliance and communicating results to relevant agencies. These forms shall include all of the following:

(1) An "Option to Install," to be sent by the Department of Motor Vehicles to repeat offenders along with the mandatory order of suspension or revocation. This shall include the alternatives available for early license reinstatement with the installation of an ignition interlock device and shall be accompanied by a toll-free telephone number for each manufacturer of a certified ignition interlock device. Information regarding approved installation locations shall be provided to drivers by manufacturers with ignition interlock devices that have been certified in accordance with this section.

(2) A "Verification of Installation" to be returned to the department by the reinstating offender upon application for reinstatement. Copies shall be provided for the manufacturer or the manufacturer's agent.

(3) A "Notice of Noncompliance" and procedures to ensure continued use of the ignition interlock device during the restriction period and to ensure compliance with maintenance requirements. The maintenance period shall be standardized at 60 days to maximize monitoring checks for equipment tampering.

(h) Every manufacturer and manufacturer's agent certified by the department to provide ignition interlock devices shall adopt fee schedules that provide for the payment of the costs of the device by applicants in amounts commensurate with the applicant's ability to pay.

SEC. 3. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted, if the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. Knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the

person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(e) If a person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If a person is convicted of a second or subsequent offense that results in a conviction of this section within seven years, but over five years, of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Pursuant to Section 23575, the court shall require a person convicted of a violation of this section to install a certified ignition interlock device on a vehicle the person owns or operates. Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

(i) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(j) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor

Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

SEC. 4. Section 14601.4 of the Vehicle Code is amended to read:

14601.4. (a) It is unlawful for a person, while driving a vehicle with a license suspended or revoked pursuant to Section 14601.2 to do an act forbidden by law or neglect a duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. In proving the person neglected a duty imposed by law in the driving of the vehicle, it is not necessary to prove that a specific section of this code was violated.

(b) A person convicted under this section shall be imprisoned in the county jail and shall not be released upon work release, community service, or other release program before the minimum period of imprisonment, prescribed in Section 14601.2, is served. If a person is convicted of that offense and is granted probation, the court shall require that the person convicted serve at least the minimum time of imprisonment, as specified in those sections, as a term or condition of probation.

(c) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it should be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

(d) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(e) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

SEC. 5. Section 14601.5 of the Vehicle Code is amended to read:

14601.5. (a) A person may not drive a motor vehicle at any time when that person's driving privilege is suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 and that person has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, a person may not drive a motor vehicle at any time when that person's driving privilege

is restricted pursuant to Section 13353.7 or 13353.8 and that person has knowledge of the restriction.

(c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be conclusively presumed if notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section is punishable, as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction for a violation of this section or Section 14601, 14601.1, 14601.2, or 14601.3, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

(e) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.

(f) This section does not prohibit a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.

(g) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

(h) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(i) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

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 836

An act to amend Section 4663 of the Labor Code, relating to workers' compensation.

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

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

SECTION 1. Section 4663 of the Labor Code is amended to read:

4663. (a) Apportionment of permanent disability shall be based on causation.

(b) Any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall in that report address the issue of causation of the permanent disability.

(c) In order for a physician's report to be considered complete on the issue of permanent disability, the report must include an apportionment determination. A physician shall make an apportionment determination by finding what approximate percentage of the permanent disability was caused by the direct result of injury arising out of and occurring in the course of employment and what approximate percentage of the permanent disability was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. If the physician is unable to include an apportionment determination in his or her report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then

consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.

(d) An employee who claims an industrial injury shall, upon request, disclose all previous permanent disabilities or physical impairments.

(e) Subdivisions (a), (b), and (c) shall not apply to injuries or illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10, 3212.11, 3212.12, 3213, and 3213.2.

SEC. 2. It is the intent of the Legislature that this act be construed as declaratory of existing law.

CHAPTER 837

An act to amend Section 87482 of, to amend and renumber Sections 69616, 69616.1, 69616.2, 69616.3, 69616.4, 69616.5, 69616.6, 69616.7, 69616.8, 69616.9, and 69617 of, to add Article 3.51 (commencing with Section 78260), Article 3.52 (commencing with Section 78261), and Article 3.53 (commencing with Section 78262) to Chapter 2 of Part 48 of, to add Article 7.7 (commencing with Section 89267) to Chapter 2 of Part 55 of, to add Article 5.5 (commencing with Section 92645) to Chapter 6 of Part 57 of, to add the heading of Chapter 3 (commencing with Section 70100) to Part 42 of, and to add the heading of Article 1 (commencing with Section 70100) to Chapter 3 of Part 42 of, to add and repeal Article 10 (commencing with Section 33430) of Chapter 3 of Part 20 of, to add and repeal Article 2 (commencing with Section 70120) of Chapter 3 of Part 42 of, and to repeal the heading of Article 5.3 (commencing with Section 69616) of Chapter 2 of Part 42 of, the Education Code, relating to nursing education.

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

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

SECTION 1. (a) The Legislature hereby finds and declares that California is facing a health care crisis of immense proportion in major part due to a critical shortage of registered nurses. California currently ranks 49th among states in nurses per capita. This shortage is expected to increase over the next five years due to the aging of both the general population and of the nursing workforce. It is estimated that, in order to

fill the projected shortage, California will need to graduate an additional 3,300 nurses a year.

(b) Furthermore, state educational institutions do not currently have the capacity to meet California's nursing workforce needs. Schools are filled to capacity and have long waiting lists. A shortage of faculty and clinical facilities makes it difficult for schools to expand their programs. A significant number of students fail to complete registered nursing programs because of a lack of preparation, limited program support services, and college admission policies.

(c) The Legislature also finds that diversity in the health care workforce is essential to providing quality access to health care to the multicultural and ethnic communities in the state.

(d) Therefore, the Legislature declares its intent to establish the Nursing Education Pipeline Act of 2006 to expand the number of nurses educated in California over the next five years by accomplishing all of the following:

(1) Expanding the capacity of health career programs at the secondary level.

(2) Increasing nursing education enrollment in community colleges and the California State University system.

(3) Recruiting and retaining nursing faculty.

(4) Streamlining the clinical placement process and thereby increasing clinical placement opportunities for both students and hospitals.

(5) Enhancing financial assistance for nursing students and nurses choosing to become nursing faculty.

(6) Providing additional resources to community colleges to reduce program attrition.

(7) Creating a statewide health workforce database to monitor workforce supply and demand issues and educational capacity to meet workforce needs.

SEC. 2. Article 10 (commencing with Section 33430) is added to Chapter 3 of Part 20 of the Education Code, to read:

Article 10. Health Science and Medical Technology Project

33430. (a) This article establishes the Health Science and Medical Technology Project, administered by the State Department of Education to provide competitive grant funds to California public schools offering grades 7 to 12, inclusive, to enhance existing or establish new health-related career pathway programs. Programs eligible for funding include, but are not necessarily limited to, California partnership academies and regional occupational centers and programs, as well as other health science and medical technology pathway programs. Grant

recipients shall, at a minimum, offer a coherent sequence of standards-based academic and Career Technical Education coursework in selected pathways that will result in higher levels of achievement, technical skills, and knowledge necessary for students to pursue a full range of health care employment at support, technical, or professional levels.

(b) Funding provided for the purposes of this article shall be used for any of the following purposes: standards-based curriculum development, development of a sequence of courses in selected pathways, program articulation in grades 7 to 14, inclusive, material and equipment, student support, work-based learning experiences, and professional development.

33431. The State Department of Education shall report to the Legislature and the Governor on the efficacy of the project established under this article on or before January 1, 2012.

33432. This article shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. The heading of Article 5.3 (commencing with Section 69616) of Chapter 2 of Part 42 of the Education Code, as amended and renumbered by Section 21 of Chapter 79 of the Statutes of 2006, is repealed.

SEC. 4. Section 69616 of the Education Code, as amended by Section 22 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70100. (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. 5. Section 69616.1 of the Education Code, as amended by Section 23 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70101. (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 one 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) of Chapter 2, 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, and shall not be eligible to receive a grant pursuant to Article 3.51 (commencing with Section 78260) of Chapter 2 of Part 48.

SEC. 6. Section 69616.2 of the Education Code, as amended by Section 24 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70102. 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. 7. Section 69616.3 of the Education Code, as amended by Section 25 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70103. 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. 8. Section 69616.4 of the Education Code, as amended by Section 26 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70104. (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 70101, 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 70103 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 70103 have been satisfied.

SEC. 9. Section 69616.5 of the Education Code, as amended by Section 27 of Chapter 79 of the Statutes of 2006, is amended and renumbered to read:

70105. (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. 10. Section 69616.6 of the Education Code is amended and renumbered to read:

70106. The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time for which a warrant shall remain valid and the development of projections for funding purposes. In developing these rules and regulations, the commission shall solicit the advice of representatives from postsecondary education institutions, the Office of Statewide Health Planning and Development, and the nursing community.

SEC. 11. Section 69616.7 of the Education Code is amended and renumbered to read:

70107. The commission shall work to develop a streamlined application process for participation in the program set forth in this article.

SEC. 12. Section 69616.8 of the Education Code is amended and renumbered to read:

70108. The commission shall report annually to the Legislature on this program. The report shall include, but not be limited to, all of the following:

(a) The total number of loan assumption agreements offered, by education level and institution.

(b) The number of loan assumption agreements paid out, by education level and institution.

(c) The number of loan assumption agreements that are redeemed, by year of service (year one through year three).

(d) The annual and cumulative attrition rate of participants, by education level and institution.

SEC. 13. Section 69616.9 of the Education Code is amended and renumbered to read:

70109. Notwithstanding any other law, in any fiscal year, the commission shall award no more than the number of warrants that are authorized by the Governor and the Legislature in the annual Budget Act for that year for the assumption of loans pursuant to this article.

SEC. 14. Section 69617 of the Education Code is amended and renumbered to read:

70110. It is the intent of the Legislature that, commencing with the 2006–07 fiscal year, funding necessary for the administration of the student loan assumption program implemented pursuant to this article shall be included within the annual budget of the commission.

SEC. 15. The heading of Chapter 3 (commencing with Section 70100) is added to Part 42 of the Education Code, to read:

Chapter 3. State Nursing Assumption Program of Loans for Education (SNAPLE)

SEC. 16. The heading of Article 1 (commencing with Section 70100) is added to Chapter 3 of Part 42 of the Education Code, to read:

Article 1. Nursing Faculty

SEC. 17. Article 2 (commencing with Section 70120) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 2. Employees of State Facilities

70120. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to work full time as a registered nurse in a state-operated 24-hour facility that employs registered nurses, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 70122 upon becoming employed as a clinical registered nurse in a state-operated 24-hour facility that employs registered nurses and that has a clinical registered nurse vacancy rate of greater than 10 percent as reported annually to the commission by the Department of Personnel Administration pursuant to Section 70121. In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the conditions specified in subdivision (b).

(2) As used in this article, "eligible institution" means a postsecondary institution that is determined by the Student Aid Commission to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains an accredited program of professional preparation for licensing as a registered nurse in California.

(3) As used in this article, "state-operated 24-hour facility" includes, but is not necessarily limited to, a state-operated prison, psychiatric hospital, or veterans' home.

(b) (1) The applicant has been admitted to, or is enrolled in, an accredited program of professional preparation for licensing as a registered nurse in California.

(2) The applicant is currently enrolled, or has been admitted to a program in which he or she will be enrolled, on a full-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of full-time enrollment, as defined by the participating eligible institution.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to work full time for at least four consecutive years as a clinical registered nurse in a state-operated 24-hour facility that employs registered nurses and that has a clinical registered nurse vacancy rate of greater than 10 percent as reported annually to the commission by the Department of Personnel Administration.

(c) No applicant who has completed fewer than 60 semester units, or the equivalent, shall be eligible under this section to participate in the loan assumption program set forth in this article.

(d) An agreement shall remain valid even if the state-operated facility at which the applicant is employed ceases to be listed pursuant to Section 70121 after the applicant is employed there.

(e) A person participating in the program pursuant to this section shall not enter into more than one agreement.

70121. On or before January 31, 2007, and each January 31 thereafter until, and including, January 31, 2012, the Department of Personnel Administration shall provide the commission with a list including each state-operated 24-hour facility that employs registered nurses where, as of the immediately preceding January 1, there is a vacancy rate in clinical registered nurse positions that exceeds 10 percent.

70122. The commission shall commence loan assumption payments, as specified in Section 70123, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has become a registered nurse licensed to practice in California.

(b) The applicant is working full time as a clinical registered nurse in a state-operated 24-hour facility that employs registered nurses and that, at the time the applicant commenced employment there, had a clinical registered nurse vacancy rate of greater than 10 percent as reported, pursuant to Section 70121, by the Department of Personnel Administration in its most recent annual report to the commission.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

70123. The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(a) After a program participant has completed one year of full-time employment as described in subdivision (b) of Section 70122, the commission shall assume up to five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated loan programs.

(b) After a program participant has completed two years of full-time employment as described in subdivision (b) of Section 70122, the commission shall assume up to an additional five thousand dollars

($5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to ten thousand dollars ($10,000).

(c) After a program participant has completed three years of full-time employment as described in subdivision (b) of Section 70122, the commission shall assume up to an additional five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to fifteen thousand dollars ($15,000).

(d) After a program participant has completed four years of full-time employment as described in subdivision (b) of Section 70122, the commission shall assume up to an additional five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to twenty thousand dollars ($20,000).

70124. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive years of full-time employment as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (b) of Section 70120, the participant shall assume full liability for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying clinical registered nursing service pursuant to Section 70123.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of qualifying clinical registered nursing service due to serious illness, pregnancy, or other natural causes, the term of the loan assumption agreement shall be extended for a period not to exceed one year. The commission shall make no further payments under the loan assumption agreement until the applicable work requirements as specified in Section 70122 have been satisfied.

(c) If a natural disaster prevents a program participant from completing one of the required years of work due to the interruption of employment at the employing state facility, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the interruption of employment at the employing state facility 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 70103 have been satisfied.

70125. The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of

resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of qualifying clinical registered nursing service, and the development of projections for funding purposes.

70126. On or before January 31, 2008, and on or before each January 31 thereafter until, and including, January 31, 2012, the commission shall report annually to the Legislature regarding both of the following, on the basis of sex, age, and ethnicity:

(a) The total number of program participants and the type of program of professional preparation they are attending or have attended.

(b) The numbers of participants who complete one, two, three, or four years of qualifying clinical registered nursing service, respectively.

70127. On or before May 1, 2011, the Office of the Legislative Analyst shall submit a report to the Legislature that includes the findings and recommendations of the Legislative Analyst with respect to the efficacy of the program established by this article.

70128. In selecting applicants for participation in this program, the commission shall grant priority to applicants who, in the determination of the commission, are included in any of the following categories:

(a) Persons who possess a baccalaureate degree at the time of initial application.

(b) Persons who are enrolled in an accelerated program of professional preparation for licensing as a registered nurse in California.

(c) Persons who are recipients of federally subsidized student loans or other need-based student loans.

70129. This article shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Article 3.51 (commencing with Section 78260) is added to Chapter 2 of Part 48 of the Education Code, to read:

Article 3.51. Nursing Faculty

78260. (a) (1) In order to further the state's interests in a major expansion in the number of educated nurses in California, the Legislature finds that it is necessary to ensure a significant expansion in the number of qualified nursing faculty at California Community Colleges. Therefore, the Legislature hereby creates the California Community Colleges Nursing Faculty Recruitment and Retention Program in the Chancellor's Office of the California Community Colleges for purposes of facilitating the recruitment and retention of qualified nursing faculty. The Chancellor

of the California Community Colleges shall allocate funds on a competitive grant basis to community college districts that commit to sustained increases in the number of full-time equivalent students taught in the district's nursing programs, as specified by the chancellor, and that also commit to the terms and conditions specified in this section.

(2) It is the intent of the Legislature that the grants awarded under this article should be one-time grants and that the total amount of the funding for this article in any fiscal year should be limited to the amount appropriated for that purpose in the annual Budget Act. The Legislature finds and declares that the initial funding for this article is the appropriation contained in paragraph (30) of subdivision (a) of Section 43 of Chapter 79 of the Statutes of 2006.

(b) (1) (A) The grant amount to each participating district shall be based on the number of full-time faculty at the district who are in their first through fifth year of service as an instructor in a California Community College registered nursing program in the fiscal year for which funds are disbursed. Notwithstanding any other provision of law, a community college district that receives an allocation for the making of grants under this article shall have up to five years to disburse these funds.

(B) Except as provided in paragraph (3), the amount granted to any person under this article shall not exceed a total of twenty thousand dollars ($20,000) disbursed over a five-year period with a maximum of six thousand dollars ($6,000) in any one year.

(2) Disbursements under this section shall be based on the following schedule:

(A) Six thousand dollars ($6,000) for each instructor in his or her first year.

(B) Five thousand dollars ($5,000) for each instructor in his or her second year.

(C) Four thousand dollars ($4,000) for each instructor in his or her third year.

(D) Three thousand dollars ($3,000) for each instructor in his or her fourth year.

(E) Two thousand dollars ($2,000) for each instructor in his or her fifth year.

(3) Notwithstanding the amounts listed in paragraph (2), the amount granted to a person under this article may be supplemented, in any year of the five-year cycle of disbursements under paragraph (2), by up to one thousand dollars ($1,000) in local matching funds, plus an equal amount of funds disbursed pursuant to this program.

(4) A person who receives a grant under this article shall not be eligible for participation in the State Nursing Assumption Program of

Loans for Education Chapter 3 (commencing with Section 70100) of Part 42.

(c) Each district is authorized, through its shared governance and collective bargaining relationships, to allocate actual payments to faculty in their first through fifth years of service as a nursing instructor on a different basis if the district finds that its ability to recruit and retain nursing faculty is thereby enhanced.

(d) Each district may use a portion of the grant proceeds to offer incentives to either full-time or part-time nursing instructors for the purpose of instruction in clinical settings during weekends and evenings. This subdivision shall not construed to be limited to faculty in their first through fifth years of service as nursing instructors.

(e) As a condition of receiving grant funds under this article, each district agrees to provide the chancellor with all data requested by the chancellor on the expenditure of funds and program outcomes.

(f) The chancellor shall report annually by March 1 to the Legislature and the Governor on program expenditures and outcomes by participating district and college.

SEC. 19. Article 3.52 (commencing with Section 78261) is added to Chapter 2 of Part 48 of the Education Code, to read:

Article 3.52. Nursing Students

78261. (a) The Legislature finds and declares both of the following:

(1) The Legislature intends to facilitate both the expansion of associate degree nursing programs and the improvement in completion rates in those programs.

(2) The Legislature also intends that community colleges employ nationally validated diagnostic assessment tools that are aligned with national nursing certification requirements. Both students and the state benefit when diagnostic assessments are supplemented with educational opportunities to assist students in meeting skill levels.

(b) It is the intent of the Legislature to create a Nursing Enrollment Growth and Retention program in the Chancellor's Office of the California Community Colleges. The purpose of this program shall be to provide grants to community college associate degree of nursing programs that meet either of the following conditions:

(1) The nursing program has low or moderate program attrition levels.

(2) The nursing program provides a comprehensive program of diagnostic assessment, prenursing preparation, and program-based support to students.

(c) It is the intent of the Legislature that this program shall be funded, beginning in the 2006–07 fiscal year, by a redirection of the ten million

dollars ($10,000,000) provided annually pursuant to the Budget Act of 2005, along with an additional investment of two million eight hundred eighty-six thousand dollars ($2,886,000) annually, for a total program budget of twelve million eight hundred eighty-six thousand dollars ($12,886,000) annually. Unencumbered funds that were appropriated in the Budget Act of 2005 may be used for capacity building and equipment in the 2006–07 fiscal year.

(d) The Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges may award grants to community college districts with associate degree nursing programs to expand enrollment, reduce program attrition, or both. Funds shall be used only for the following purposes: expanding enrollment, providing diagnostic assessments, and developing and offering preentry coursework to prospective nursing students and diagnostic assessments and supportive services to enrolled nursing students. For purposes of this section, supportive services include, but are not necessarily limited to, tutoring, case management, mentoring, and counseling services. Funds may also be used to develop alternative delivery models such as part-time, evening, weekend, and summer program offerings. In order to qualify for these funds, a community college associate degree nursing program shall do either of the following:

(1) Have a program attrition rate, as determined by the Board of Registered Nursing's Annual School Report or the Information Program Data System of the Chancellor's Office of the California Community Colleges, of 15 percent or less for the year prior to application for funding.

(2) Commit to implement a comprehensive program of diagnostic assessment, prenursing enrollment preparation, and program-based support to enrolled students, as defined in this article.

(e) Prior to awarding any funds to be used for reducing program attrition, the chancellor's office shall do all of the following:

(1) Identify, in collaboration with community college associate degree nursing programs, nationally validated diagnostic assessment tools that determine the likelihood of academic success in registered nursing education programs.

(2) Establish, in collaboration with community college associate degree nursing programs, the systemwide proficiency level necessary for academic success for each diagnostic assessment tool.

(3) Define the kinds of educational and support services that qualify for funding under this program.

(f) As a condition of receiving grants under paragraph (2) of subdivision (d), a community college district shall, at a minimum, do all of the following:

(1) Utilize diagnostic assessment tools prior to enrollment to determine readiness for community college associate degree nursing programs.

(2) Develop educational preentry coursework, including, but not necessarily limited to, tutorials or noncredit instruction, aligned to the entry level nursing standards and curriculum for students who fail to demonstrate readiness based upon the diagnostic assessment tools.

(3) Provide access to prenursing coursework for all students who do not demonstrate readiness based upon the diagnostic assessment tools.

(4) Require that students demonstrate readiness through the diagnostic assessment or successful completion of the prenursing coursework specified above prior to commencing the registered nursing program.

(5) Ensure that students that participate in educational preentry coursework in order to demonstrate readiness based upon the diagnostic assessment tools are not disadvantaged in the program enrollment process.

(g) As a condition of receiving grant funds pursuant to paragraph (2) of subdivision (d), each recipient district shall report to the chancellor's office the following data for the academic year on or before a date determined by the chancellor's office:

(1) The number of students enrolled in the nursing program.

(2) The number of students taking diagnostic assessments.

(3) The number of students failing to meet proficiency levels as determined by diagnostic assessment tools.

(4) The number of students failing to meet proficiency levels that enroll in preentry preparation classes.

(5) The number of students who successfully complete preentry preparation classes.

(6) The average number of months between initial diagnostic assessment, demonstration of readiness, and enrollment in the nursing program for students failing to meet proficiency standards on the initial diagnostic assessment.

(7) The average number of months between diagnostic assessment and program enrollment for students meeting proficiency standards on the initial diagnostic assessment.

(8) The number of students who completed the associate degree nursing program and the number of students who pass the National Council Licensure Examination (NCLEX).

(h) (1) Data reported to the chancellor under this article shall be disaggregated by age, gender, ethnicity, and language spoken at home.

(2) The chancellor's office shall compile and provide this information to the Legislature and the Governor by March 1 of each year.

(i) It is the intent of the Legislature that, pursuant to funding to be provided in the annual Budget Act, in the 2009–10 academic year, the

California Community Colleges should increase the statewide enrollment of full-time equivalent registered nursing students by 450 and, beginning in the 2010–11 academic year and continuing each academic year thereafter, add 900 new full-time equivalent registered nursing students.

SEC. 20. Article 3.53 (commencing with Section 78262) is added to Chapter 2 of Part 48 of the Education Code, to read:

Article 3.53. Nursing Resource Centers

78262. (a) The Chancellor's Office of the California Community Colleges shall fund the development of regional nursing resource centers that bring together school, hospital, and faculty needs and availability in a regionalized, online format to help schools match their student clinical needs to available openings, assist hospitals to manage their clinical rotation schedules, and facilitate the filling of vacant nursing faculty positions.

(b) The chancellor's office shall fund regional nursing resource center startup grants to develop clinical placement and clinical faculty resource systems. Each startup grant shall last for no more than 30 months. An applicant for a grant under this article shall do all of the following:

(1) Select an entity for managing the grant.

(2) Ensure the participation of at least 75 percent of the nursing programs and hospitals in the coverage area.

(3) Provide matching funds on a 1:1 basis.

(4) Demonstrate the sustainability of the system after the grant terminates.

(c) The chancellor's office shall be responsible for developing a request for funding application from hospital and school regional partnerships seeking grant funds and providing technical assistance to communities for the purpose of developing proposals.

SEC. 21. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) No person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to subdivision (c), shall be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as clinical nursing faculty may be employed by any one district under this section for up to four semesters or six quarters within any period of three consecutive academic years between July 1, 2007, and June 30, 2014, inclusive.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), how many districts hired faculty under this subdivision, how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

SEC. 22. Article 7.7 (commencing with Section 89267) is added to Chapter 2 of Part 55 of the Education Code, to read:

Article 7.7. Baccalaureate Degree Nursing Programs

89267. It is the intent of the Legislature:

(a) That, pursuant to funding to be appropriated in the Budget Act of 2007, the trustees should increase, by at least 340, the number of full-time equivalent students in baccalaureate degree nursing programs, beginning in the 2007–08 fiscal year.

(b) That the trustees provide a report to the Governor and the Legislature on or before March 15, 2007, on the proposed expenditure plans to expand nursing programs to enroll an additional 340 full-time

equivalent students as a result of the funds appropriated in the Budget Act of 2007.

(c) To support the expansion of future baccalaureate degree nursing enrollment with annual appropriations in the State Budget Act.

SEC. 23. Article 5.5 (commencing with Section 92645) is added to Chapter 6 of Part 57 of the Education Code, to read:

Article 5.5. Baccalaureate and Master's Degree Nursing Programs

92645. It is the intent of the Legislature that all of the following occur:

(a) That, pursuant to funding to be appropriated in the Budget Act of 2007, the Regents of the University of California should offer at least 175 full-time equivalent students in baccalaureate degree nursing programs, at least 140 state-supported full-time equivalent students in accelerated master's level nursing programs, including entry-level master's programs and entry-level master's clinical programs, at least 41 full-time equivalent associate degree nursing (ADN) transitional to bachelor's of science of nursing (BSN) and full-time equivalent master of science of nursing (MSN) students, and at least 40 full-time equivalent students in traditional master of science in nursing (MSN) degree programs by the 2007–08 academic year.

(b) That the regents provide a report to the Governor and the Legislature on or before March 15, 2007, on the proposed expenditure plans to expand nursing programs to enroll the additional students identified in subdivision (a).

(c) That the expansion of future baccalaureate, accelerated master's degree, ADN transitional to BSN and MSN degrees, and traditional MSN degree nursing enrollment be supported with appropriations in the annual Budget Act.

CHAPTER 838

An act to amend Sections 3041, 7821, 7822, 8616.5, 8620, 8710, and 9210 of, to add Sections 7892.5, 7907.3, 8606.5, 8619.5, 9208, and 9209 to, to add Part 3 (commencing with Section 170) to Division 1 of, and to repeal Section 7810 of, the Family Code, to amend Sections 1510, 1511, 1513, 1516.5, and 1601 of, to add Sections 1449, 1459, 1459.5, 1460.2, 1474, and 1500.1 to, and to repeal Section 2112 of, the Probate Code, and to amend Sections 290.1, 290.2, 291, 292, 293, 294, 295, 297, 305.5, 317, 361, 366, 366.26, 727.4, 10553.1, and 16507.4 of, to add Sections 110, 224, 224.1, 224.2, 224.3, 224.4, 224.5, 224.6, 306.6,

361.31, and 361.7 to, and to repeal Section 360.6 of, the Welfare and Institutions Code, relating to Indian children.

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

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

SECTION 1. Part 3 (commencing with Section 170) is added to Division 1 of the Family Code, to read:

PART 3. INDIAN CHILDREN

170. (a) As used in this code, unless the context otherwise requires, the terms "Indian," "Indian child," "Indian child's tribe," "Indian custodian," "Indian organization," "Indian tribe," "reservation," and "tribal court" shall be defined as provided in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(b) When used in connection with an Indian child custody proceeding, the terms "extended family member" and "parent" shall be defined as provided in Section 1903 of the Indian Child Welfare Act.

(c) "Indian child custody proceeding" means a "child custody proceeding" within the meaning of Section 1903 of the Indian Child Welfare Act, including a voluntary or involuntary proceeding that may result in an Indian child's temporary or long-term foster care or guardianship placement if the parent or Indian custodian cannot have the child returned upon demand, termination of parental rights, or adoptive placement. An "Indian child custody proceeding" does not include a proceeding under this code commenced by the parent of an Indian child to determine the custodial rights of the child's parents, unless the proceeding involves a petition to declare an Indian child free from the custody or control of a parent or involves a grant of custody to a person or persons other than a parent, over the objection of a parent.

(d) If an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe, the court shall make a determination, in writing together with the reasons for it, as to which tribe is the Indian child's tribe for purposes of the Indian child custody proceeding. The court shall make that determination as follows:

(1) If the Indian child is or becomes a member of only one tribe, that tribe shall be designated as the Indian child's tribe, even though the child is eligible for membership in another tribe.

(2) If an Indian child is or becomes a member of more than one tribe, or is not a member of any tribe but is eligible for membership in more

than one tribe, the tribe with which the child has the more significant contacts shall be designated as the Indian child's tribe. In determining which tribe the child has the more significant contacts with, the court shall consider, among other things, the following factors:

(A) The length of residence on or near the reservation of each tribe and frequency of contact with each tribe.

(B) The child's participation in activities of each tribe.

(C) The child's fluency in the language of each tribe.

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(E) Residence on or near one of the tribes' reservations by the child's parents, Indian custodian or extended family members.

(F) Tribal membership of custodial parent or Indian custodian.

(G) Interest asserted by each tribe in response to the notice specified in Section 180.

(H) The child's self identification.

(3) If an Indian child becomes a member of a tribe other than the one designated by the court as the Indian child's tribe under paragraph (2), actions taken based on the court's determination prior to the child's becoming a tribal member shall continue to be valid.

175. (a) The Legislature finds and declares the following:

(1) There is no resource that is more vital to the continued existence and integrity of recognized Indian tribes than their children, and the State of California has an interest in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and other applicable law, designed to prevent the child's involuntary out-of-home placement and, whenever the placement is necessary or ordered, by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

(2) It is in the interest of an Indian child that the child's membership in the child's Indian tribe and connection to the tribal community be encouraged and protected, regardless of any of the following:

(A) Whether the child is in the physical custody of an Indian parent or Indian custodian at the commencement of a child custody proceeding.

(B) Whether the parental rights of the child's parents have been terminated.

(C) Where the child has resided or been domiciled.

(b) In all Indian child custody proceedings the court shall consider all of the findings contained in subdivision (a), strive to promote the stability and security of Indian tribes and families, comply with the federal Indian Child Welfare Act, and seek to protect the best interest of the child. Whenever an Indian child is removed from a foster care home or institution, guardianship, or adoptive placement for the purpose of further foster care, guardianship, or adoptive placement, placement of the child shall be in accordance with the Indian Child Welfare Act.

(c) A determination by an Indian tribe that an unmarried person, who is under the age of 18 years, is either (1) a member of an Indian tribe or (2) eligible for membership in an Indian tribe and a biological child of a member of an Indian tribe shall constitute a significant political affiliation with the tribe and shall require the application of the federal Indian Child Welfare Act to the proceedings.

(d) In any case in which this code or other applicable state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child, or the Indian child's tribe, than the rights provided under the Indian Child Welfare Act, the court shall apply the higher standard.

(e) Any Indian child, the Indian child's tribe, or the parent or Indian custodian from whose custody the child has been removed, may petition the court to invalidate an action in an Indian child custody proceeding for foster care, guardianship placement, or termination of parental rights if the action violated Sections 1911, 1912, and 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.). Nothing in this section is intended to prohibit, restrict, or otherwise limit any rights under Section 1914 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

177. (a) In an Indian child custody proceeding, the court shall apply Sections 224.2 to 224.6, inclusive, and Sections 305.5, 361.31, and 361.7 of the Welfare and Institutions Code, and the following rules from the California Rules of Court, as they read on January 1, 2005:

(1) Paragraph (7) of subdivision (b) of Rule 1410.

(2) Subdivision (i) of Rule 1412.

(b) In the provisions cited in subdivision (a), references to social workers, probation officers, county welfare department, or probation department shall be construed as meaning the party seeking a foster care placement, guardianship, or adoption under this code.

(c) This section shall only apply to proceedings involving an Indian child.

180. (a) In an Indian child custody proceeding notice shall comply with subdivision (b) of this section.

(b) Any notice sent under this section shall be sent to the minor's parent or legal guardian, Indian custodian, if any, and the Indian child's tribe and shall comply with all of the following requirements:

(1) Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.

(2) Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.

(3) Notice shall be sent to all tribes of which the child may be a member or eligible for membership until the court makes a determination as to which tribe is the Indian child's tribe in accordance with subdivision (d) of Section 170, after which notice need only be sent to the tribe determined to be the Indian child's tribe.

(4) Notice, to the extent required by federal law, shall be sent to the Secretary of the Interior's designated agent, the Sacramento Area Director, Bureau of Indian Affairs. If the identity or location of the Indian child's tribe is known, a copy of the notice shall also be sent directly to the Secretary of the Interior unless the Secretary of the Interior has waived that notice in writing and the person responsible for giving notice under this section has filed proof of the waiver with the court.

(5) In addition to the information specified in other sections of this article, notice shall include all of the following information:

(A) The name, birthdate, and birthplace of the Indian child, if known.

(B) The name of any Indian tribe in which the child is a member or may be eligible for membership, if known.

(C) All names known of the Indian child's biological parents, grandparents, and great-grandparents, or Indian custodians, including maiden, married, and former names or aliases, as well as their current and former addresses, birthdates, places of birth and death, tribal enrollment numbers, and any other identifying information, if known.

(D) A copy of the petition by which the proceeding was initiated.

(E) A copy of the child's birth certificate, if available.

(F) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(G) A statement of the following:

(i) The absolute right of the child's parents, Indian custodians, and tribe to intervene in the proceeding.

(ii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.

(iii) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.

(iv) The potential legal consequences of the proceedings on the future custodial rights of the child's parents or Indian custodians.

(v) That if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent the parents or Indian custodians pursuant to Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(vi) That the information contained in the notice, petition, pleading, and other court documents is confidential, so any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(c) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing thereafter, including, but not limited to, the hearing at which a final adoption order is to be granted. After a tribe acknowledges that the child is a member or eligible for membership in that tribe, or after the Indian child's tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (G) of paragraph (5) of subdivision (b) need not be included with the notice.

(d) Proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing except as permitted under subdivision (e).

(e) No proceeding shall be held until at least 10 days after receipt of notice by the parent, Indian custodian, the tribe, or the Bureau of Indian Affairs. The parent, Indian custodian, or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding. Nothing herein shall be construed as limiting the rights of the parent, Indian custodian, or tribe to 10 days' notice if a lengthier notice period is required under this code.

(f) With respect to giving notice to Indian tribes, a party shall be subject to court sanctions if that person knowingly and willfully falsifies or conceals a material fact concerning whether the child is an Indian child, or counsels a party to do so.

(g) The inclusion of contact information of any adult or child that would otherwise be required to be included in the notification pursuant to this section, shall not be required if that person is at risk of harm as a result of domestic violence, child abuse, sexual abuse, or stalking.

185. (a) In a custody proceeding involving a child who would otherwise be an Indian child based on the definition contained in

paragraph (4) of Section 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), but is not an Indian child based on status of the child's tribe, as defined in paragraph (8) of Section 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the court may permit the tribe from which the child is descended to participate in the proceeding upon request of the tribe.

(b) If the court permits a tribe to participate in a proceeding, the tribe may do all of the following, upon consent of the court:

(1) Be present at the hearing.

(2) Address the court.

(3) Request and receive notice of hearings.

(4) Request to examine court documents relating to the proceeding.

(5) Present information to the court that is relevant to the proceeding.

(6) Submit written reports and recommendations to the court.

(7) Perform other duties and responsibilities as requested or approved by the court.

(c) If more than one tribe requests to participate in a proceeding under subdivision (a), the court may limit participation to the tribe with which the child has the most significant contacts, as determined in accordance with paragraph (2) of subdivision (d) of Section 170.

(d) This section is intended to assist the court in making decisions that are in the best interest of the child by permitting a tribe in the circumstances set out in subdivision (a) to inform the court and parties to the proceeding about placement options for the child within the child's extended family or the tribal community, services and programs available to the child and the child's parents as Indians, and other unique interests the child or the child's parents may have as Indians. This section shall not be construed to make the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), or any state law implementing the Indian Child Welfare Act, applicable to the proceedings, or to limit the court's discretion to permit other interested persons to participate in these or any other proceedings.

(e) This section shall only apply to proceedings involving an Indian child.

SEC. 2. Section 3041 of the Family Code is amended to read:

3041. (a) Before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall make a finding that granting custody to a parent would be detrimental to the child and that granting custody to the nonparent is required to serve the best interest of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

(b) Subject to subdivision (d), a finding that parental custody would be detrimental to the child shall be supported by clear and convincing evidence.

(c) As used in this section, "detriment to the child" includes the harm of removal from a stable placement of a child with a person who has assumed, on a day-to-day basis, the role of his or her parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment does not require any finding of unfitness of the parents.

(d) Notwithstanding subdivision (b), if the court finds by a preponderance of the evidence that the person to whom custody may be given is a person described in subdivision (c), this finding shall constitute a finding that the custody is in the best interest of the child and that parental custody would be detrimental to the child absent a showing by a preponderance of the evidence to the contrary.

(e) Notwithstanding subdivisions (a) to (d), inclusive, if the child is an Indian child, when an allegation is made that parental custody would be detrimental to the child, before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall apply the evidentiary standards described in subdivisions (d), (e), and (f) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Sections 224.6 and 361.7 of the Welfare and Institutions Code and the placement preferences and standards set out in Section 361.31 of the Welfare and Institutions Code and Section 1922 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

SEC. 3. Section 7810 of the Family Code is repealed.

SEC. 4. Section 7821 of the Family Code is amended to read:

7821. A finding pursuant to this chapter shall be supported by clear and convincing evidence, except as otherwise provided.

SEC. 5. Section 7822 of the Family Code is amended to read:

7822. (a) A proceeding under this part may be brought where the child has been left without provision for the child's identification by the child's parent or parents or by others or has been left by both parents or the sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child.

(b) The failure to provide identification, failure to provide support, or failure to communicate is presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support

or communicate with the child, the court may declare the child abandoned by the parent or parents.

(c) If the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(d) If the parent has placed the child for adoption and has not refused to give the required consent to adoption, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child. If the parent has placed the child for adoption and has refused to give the required consent to adoption but has not taken reasonable action to obtain custody of the child, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child.

(e) Notwithstanding subdivisions (a), (b), (c), and (d), if the parent of an Indian child has transferred physical care, custody and control of the child to an Indian custodian, that action shall not be deemed to constitute an abandonment of the child, unless the parent manifests the intent to abandon the child by either of the following:

(1) Failing to resume physical care, custody, and control of the child upon the request of the Indian custodian provided that if the Indian custodian is unable to make a request because the parent has failed to keep the Indian custodian apprised of his or her whereabouts and the Indian custodian has made reasonable efforts to determine the whereabouts of the parent without success, there may be evidence of intent to abandon.

(2) Failing to substantially comply with any obligations assumed by the parent in his or her agreement with the Indian custodian despite the Indian custodian's objection to the noncompliance.

SEC. 6. Section 7892.5 is added to the Family Code, to read:

7892.5. The court shall not declare an Indian child free from the custody or control of a parent, unless both of the following apply:

(a) The court finds, supported by clear and convincing evidence, that active efforts were made in accordance with Section 361.7 of the Welfare and Institutions Code.

(b) The court finds, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as described in Section 224.5 of the Welfare and Institutions Code, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(c) This section shall only apply to proceedings involving an Indian child.

SEC. 7. Section 7907.3 is added to the Family Code, to read:

7907.3. The Interstate Compact on the Placement of Children shall not apply to any placement, sending, or bringing of an Indian child into another state pursuant to a transfer of jurisdiction to a tribal court under Section 1911 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

SEC. 8. Section 8606.5 is added to the Family Code, to read:

8606.5. (a) Notwithstanding any other section in this part, and in accordance with Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), consent to adoption given by an Indian child's parent is not valid unless both of the following occur:

(1) The consent is executed in writing at least 10 days after the child's birth and recorded before a judge.

(2) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(b) The parent of an Indian child may withdraw his or her consent to adoption for any reason at any time prior to the entry of a final decree of adoption and the child shall be returned to the parent.

(c) After the entry of a final decree of adoption of an Indian child, the Indian child's parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent, provided that no adoption that has been effective for at least 2 years may be invalidated unless otherwise permitted under state law.

SEC. 9. Section 8616.5 of the Family Code is amended to read:

8616.5. (a) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with birth relatives, including the birth parent or parents or an Indian tribe, after being adopted. Postadoption contact agreements are intended to ensure children of an achievable level of continuing contact when contact is beneficial to the children and the agreements are voluntarily entered into by birth relatives, including the birth parent or parents or an Indian tribe, and adoptive parents. Nothing in this section requires all of the listed parties to participate in the development of a postadoption contact agreement in order for the agreement to be entered into.

(b) (1) Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents or an Indian tribe, and the child from voluntarily entering into a written agreement to permit continuing contact

between the birth relatives, including the birth parent or parents or an Indian tribe, and the child if the agreement is found by the court to have been entered into voluntarily and to be in the best interests of the child at the time the adoption petition is granted.

(2) Except as provided in paragraph (3), the terms of any postadoption contact agreement executed under this section shall be limited to, but need not include, all of the following:

(A) Provisions for visitation between the child and a birth parent or parents and other birth relatives, including siblings, and the child's Indian tribe if the case is governed by the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(B) Provisions for future contact between a birth parent or parents or other birth relatives, including siblings, or both, and the child or an adoptive parent, or both, and in cases governed by the Indian Child Welfare Act, the child's Indian tribe.

(C) Provisions for the sharing of information about the child in the future.

(3) The terms of any postadoption contact agreement shall be limited to the sharing of information about the child, unless the child has an existing relationship with the birth relative.

(c) At the time an adoption decree is entered pursuant to a petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or 9000, the court entering the decree may grant postadoption privileges if an agreement for those privileges has been entered into, including agreements entered into pursuant to subdivision (f) of Section 8620. The hearing to grant the adoption petition and issue an order of adoption may be continued as necessary to permit parties who are in the process of negotiating a postadoption agreement to reach a final agreement.

(d) The child who is the subject of the adoption petition shall be considered a party to the postadoption contact agreement. The written consent to the terms and conditions of the postadoption contact agreement and any subsequent modifications of the agreement by a child who is 12 years of age or older is a necessary condition to the granting of privileges regarding visitation, contact, or sharing of information about the child, unless the court finds by a preponderance of the evidence that the agreement, as written, is in the best interests of the child. Any child who has been found to come within Section 300 of the Welfare and Institutions Code or who is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code shall be represented by an attorney for purposes of consent to the postadoption contact agreement.

(e) A postadoption contact agreement shall contain the following warnings in bold type:

(1) After the adoption petition has been granted by the court, the adoption cannot be set aside due to the failure of an adopting parent, a birth parent, a birth relative, an Indian tribe, or the child to follow the terms of this agreement or a later change to this agreement.

(2) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the adoption and shall not serve as a basis for orders affecting the custody of the child.

(3) A court will not act on a petition to change or enforce this agreement unless the petitioner has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute.

(f) Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, juvenile court dependency jurisdiction shall be terminated. Enforcement of the postadoption contact agreement shall be under the continuing jurisdiction of the court granting the petition of adoption. The court may not order compliance with the agreement absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(g) The court may not award monetary damages as a result of the filing of the civil action pursuant to subdivision (e) of this section.

(h) A postadoption contact agreement may be modified or terminated only if either of the following occurs:

(1) All parties, including the child if the child is 12 years of age or older at the time of the requested termination or modification, have signed a modified postadoption contact agreement and the agreement is filed with the court that granted the petition of adoption.

(2) The court finds all of the following:

(A) The termination or modification is necessary to serve the best interests of the child.

(B) There has been a substantial change of circumstances since the original agreement was executed and approved by the court.

(C) The party seeking the termination or modification has participated, or attempted to participate, in good faith in mediation or other appropriate

dispute resolution proceedings prior to seeking court approval of the proposed termination or modification.

Documentary evidence or offers of proof may serve as the basis for the court's decision. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by that inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(i) All costs and fees of mediation or other appropriate dispute resolution proceedings shall be borne by each party, excluding the child. All costs and fees of litigation shall be borne by the party filing the action to modify or enforce the agreement when no party has been found by the court as failing to comply with an existing postadoption contact agreement. Otherwise, a party, other than the child, found by the court as failing to comply without good cause with an existing agreement shall bear all the costs and fees of litigation.

(j) The Judicial Council shall adopt rules of court and forms for motions to enforce, terminate, or modify postadoption contact agreements.

(k) The court may not set aside a decree of adoption, rescind a relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of a birth parent, adoptive parent, birth relative, an Indian tribe, or the child to comply with any or all of the original terms of, or subsequent modifications to, the postadoption contact agreement, except as follows:

(1) Prior to issuing the order of adoption, in an adoption involving an Indian child, the court may, upon a petition of the birth parent, birth relative, or an Indian tribe, order the parties to engage in family mediation services for the purpose of reaching a postadoption contact agreement if the prospective adoptive parent fails to negotiate in good faith to enter into a postadoption contact agreement, after having agreed to enter into negotiations, provided that the failure of the parties to reach an agreement is not in and of itself proof of bad faith.

(2) Prior to issuing the order of adoption, if the parties fail to negotiate in good faith to enter into a postadoption contact agreement during the negotiations entered into pursuant to and in accordance with paragraph (1), the court may modify prior orders or issue new orders as necessary to ensure the best interest of the Indian child is met, including, but not limited to, requiring parties to engage in further family mediation services for the purpose of reaching a postadoption contact agreement, initiating guardianship proceeding in lieu of adoption, or authorizing a change of adoptive placement for the child.

SEC. 10. Section 8619.5 is added to the Family Code, to read:

8619.5. Whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent voluntary consents to termination of his or her parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant that petition unless there is a showing, in a proceeding subject to the provisions of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), that the return of custody is not in the best interest of the child.

SEC. 11. Section 8620 of the Family Code is amended to read:

8620. (a) (1) If a parent is seeking to relinquish a child pursuant to Section 8700 or execute an adoption placement agreement pursuant to Section 8801.3, the department, licensed adoption agency, or adoption service provider, as applicable, shall ask the child and the child's parent or custodian whether the child is, or may be, a member of, or eligible for membership in an Indian tribe or whether the child has been identified as a member of an Indian organization. The department, licensed adoption agency, or adoption service provider, as applicable, shall complete the forms provided for this purpose by the department and shall make this completed form a part of the file.

(2) If there is any oral or written information that indicates that the child is, or may be, an Indian child, the department, licensed adoption agency, or adoption service provider, as applicable, shall obtain the following information:

(A) The name of the child involved, and the actual date and place of birth of the child.

(B) The name, address, date of birth, and tribal affiliation of the birth parents, maternal and paternal grandparents, and maternal and paternal great-grandparents of the child.

(C) The name and address of extended family members of the child who have a tribal affiliation.

(D) The name and address of the Indian tribes or Indian organizations of which the child is, or may be, a member.

(E) A statement of the reasons why the child is, or may be, an Indian.

(3) (A) The department, licensed adoption agency, or adoption service provider, as applicable, shall send a notice, which shall include information obtained pursuant to paragraph (2) and a request for confirmation of the child's Indian status, to any parent and any custodian of the child, and to any Indian tribe of which the child is, or may be, a member or eligible for membership. If any of the information required under paragraph (2) cannot be obtained, the notice shall indicate that fact.

(B) The notice sent pursuant to subparagraph (A) shall describe the nature of the proceeding and advise the recipient of the Indian tribe's right to intervene in the proceeding on its own behalf or on behalf of a tribal member relative of the child.

(b) The department shall adopt regulations to ensure that if a child who is being voluntarily relinquished for adoption, pursuant to Section 8700, is an Indian child, the parent of the child shall be advised of his or her right to withdraw his or her consent and thereby rescind the relinquishment of an Indian child for any reason at any time prior to entry of a final decree of termination of parental rights or adoption, pursuant to Section 1913 of Title 25 of the United States Code.

(c) If a child who is the subject of an adoption proceeding after being relinquished for adoption pursuant to Section 8700, is an Indian child, the child's Indian tribe may intervene in that proceeding on behalf of a tribal member relative of the child.

(d) Any notice sent under this section shall comply with Section 180.

(e) If all prior notices required by this section have been provided to an Indian tribe, the Indian tribe receiving those prior notices is encouraged to provide notice to the department and to the licensed adoption agency or adoption service provider, not later than five calendar days prior to the date of the hearing to determine whether or not the final adoption order is to be granted, indicating whether or not it intends to intervene in the proceeding required by this section, either on its own behalf or on behalf of a tribal member who is a relative of the child.

(f) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with an Indian tribe. Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents, an Indian tribe, and the child, from voluntarily entering into a written agreement to permit continuing contact between the Indian tribe and the child, if the agreement is found by the court to have been entered into voluntarily and to be in the best interest of the child at the time the adoption petition is granted.

(g) With respect to giving notice to Indian tribes in the case of voluntary placements of Indian children pursuant to this section, a person, other than a birth parent of the child, shall be subject to a civil penalty if that person knowingly and willfully:

(1) Falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether the child is an Indian child or the parent is an Indian.

(2) Makes any false, fictitious, or fraudulent statement, omission, or representation.

(3) Falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact.

(4) Assists any person in physically removing a child from the State of California in order to obstruct the application of notification.

(h) Civil penalties for a violation of subdivision (g) by a person other than a birth parent of the child are as follows:

(1) For the initial violation, a person shall be fined not more than ten thousand dollars ($10,000).

(2) For any subsequent violation, a person shall be fined not more than twenty thousand dollars ($20,000).

SEC. 12. Section 8710 of the Family Code is amended to read:

8710. (a) If a child is being considered for adoption, the department or licensed adoption agency shall first consider adoptive placement in the home of a relative or, in the case of an Indian child, according to the placement preferences and standards set out in subdivisions (c), (d), (e), (f), (g), (h), and (i) of Section 361.31 of the Welfare and Institutions Code. However, if a relative is not available, if placement with an available relative is not in the child's best interest, or if placement would permanently separate the child from other siblings who are being considered for adoption or who are in foster care and an alternative placement would not require the permanent separation, the foster parent or parents of the child shall be considered with respect to the child along with all other prospective adoptive parents where all of the following conditions are present:

(1) The child has been in foster care with the foster parent or parents for a period of more than four months.

(2) The child has substantial emotional ties to the foster parent or parents.

(3) The child's removal from the foster home would be seriously detrimental to the child's well-being.

(4) The foster parent or parents have made a written request to be considered to adopt the child.

(b) In the case of an Indian child whose foster parent or parents or other prospective adoptive parents do not fall within the placement preferences established in subdivision (c) or (d) of Section 361.31 of the Welfare and Institutions Code, the foster parent or parents or other prospective adoptive parents shall only be considered if the court finds, supported by clear and convincing evidence, that good cause exists to deviate from these placement preferences.

(c) This section does not apply to a child who has been adjudged a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

SEC. 13. Section 9208 is added to the Family Code, to read:

9208. (a) The clerk of the superior court entering a final order of adoption concerning an Indian child shall provide the Secretary of the Interior or his or her designee with a copy of the order within 30 days of the date of the order, together with any information necessary to show the following:

(1) The name and tribal affiliation of the child.

(2) The names and addresses of the biological parents.

(3) The names and addresses of the adoptive parents.

(4) The identity of any agency having files or information relating to that adoptive placement.

(b) If the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include that affidavit with the other information.

SEC. 14. Section 9209 is added to the Family Code, to read:

9209. (a) Upon application by an Indian individual who has reached the age of 18 years and who was the subject of an adoptive placement, the court which entered the final decree of adoption shall inform that individual of the tribal affiliation, if any, of the individual's biological parents and provide any other information as may be necessary to protect any rights flowing from the individual's tribal relationship, including, but not limited to, tribal membership rights or eligibility for federal or tribal programs or services available to Indians.

(b) If the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall inform the individual that the Secretary of the Interior may, upon request, certify to the individual's tribe that the individual's parentage and other circumstances of birth entitle the individual to membership under the criteria established by the tribe.

SEC. 15. Section 9210 of the Family Code is amended to read:

9210. (a) Except as otherwise provided in subdivisions (b) and (c), a court of this state has jurisdiction over a proceeding for the adoption of a minor commenced under this part if any of the following applies:

(1) Immediately before commencement of the proceeding, the minor lived in this state with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six consecutive months, excluding periods of temporary absence, or, in the case of a minor under six months of age, lived in this state with any of those individuals from soon after birth and there is available in this state substantial evidence concerning the minor's present or future care.

(2) Immediately before commencement of the proceeding, the prospective adoptive parent lived in this state for at least six consecutive months, excluding periods of temporary absence, and there is available

in this state substantial evidence concerning the minor's present or future care.

(3) The agency that placed the minor for adoption is located in this state and both of the following apply:

(A) The minor and the minor's parents, or the minor and the prospective adoptive parent, have a significant connection with this state.

(B) There is available in this state substantial evidence concerning the minor's present or future care.

(4) The minor and the prospective adoptive parent are physically present in this state and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to or threatened with mistreatment or abuse or is otherwise neglected.

(5) It appears that no other state would have jurisdiction under requirements substantially in accordance with paragraphs (1) to (4), inclusive, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to hear a petition for adoption of the minor, and there is available in this state substantial evidence concerning the minor's present or future care.

(b) A court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with this part, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for another reason.

(c) If a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this state, a court of this state may not exercise jurisdiction over a proceeding for adoption of the minor, unless both of the following apply:

(1) The requirements for modifying an order of a court of another state under this part are met, the court of another state does not have jurisdiction over a proceeding for adoption substantially in conformity with paragraphs (1) to (4), inclusive, of subdivision (a), or the court of another state has declined to assume jurisdiction over a proceeding for adoption.

(2) The court of this state has jurisdiction under this section over the proceeding for adoption.

(d) For purposes of subdivisions (b) and (c), "a court of another state" includes, in the case of an Indian child, a tribal court having and exercising jurisdiction over a custody proceeding involving the Indian child.

SEC. 16. Section 1449 is added to the Probate Code, to read:

1449. (a) As used in this division, unless the context otherwise requires, the terms "Indian," "Indian child," "Indian child's tribe," "Indian custodian," "Indian tribe," "reservation," and "tribal court" shall be defined as provided in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(b) When used in connection with an Indian child custody proceeding, the terms "extended family member" and "parent" shall be defined as provided in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(c) "Indian child custody proceeding" means a "child custody proceeding" within the meaning of Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), including a voluntary or involuntary proceeding that may result in an Indian child's temporary or long-term foster care or guardianship placement if the parent or Indian custodian cannot have the child returned upon demand, termination of parental rights or adoptive placement.

(d) When an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe, the court shall make a determination, in writing together with the reasons for it, as to which tribe is the Indian child's tribe for purposes of the Indian child custody proceeding. The court shall make that determination as follows:

(1) If the Indian child is or becomes a member of only one tribe, that tribe shall be designated as the Indian child's tribe, even though the child is eligible for membership in another tribe.

(2) If an Indian child is or becomes a member of more than one tribe, or is not a member of any tribe but is eligible for membership in more than one tribe, the tribe with which the child has the more significant contacts shall be designated as the Indian child's tribe. In determining which tribe the child has the more significant contacts with, the court shall consider, among other things, the following factors:

(A) The length of residence on or near the reservation of each tribe and frequency of contact with each tribe.

(B) The child's participation in activities of each tribe.

(C) The child's fluency in the language of each tribe.

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(E) The residence on or near one of the tribes' reservations by the child parents, Indian custodian, or extended family members.

(F) Tribal membership of custodial parent or Indian custodian.

(G) Interest asserted by each tribe in response to the notice specified in Section 1460.2.

(H) The child's self-identification.

(3) If an Indian child becomes a member of a tribe other than the one designated by the court as the Indian child's tribe under paragraph (2), actions taken based on the court's determination prior to the child's becoming a tribal member shall continue to be valid.

SEC. 17. Section 1459 is added to the Probate Code, to read:

1459. (a) The Legislature finds and declares the following:

(1) There is no resource that is more vital to the continued existence and integrity of recognized Indian tribes than their children, and the State of California has an interest in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and other applicable law, designed to prevent the child's involuntary out-of-home placement and, whenever such placement is necessary or ordered, by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

(2) It is in the interest of an Indian child that the child's membership in the child's Indian tribe and connection to the tribal community be encouraged and protected, regardless of whether or not the child is in the physical custody of an Indian parent or Indian custodian at the commencement of a child custody proceeding, the parental rights of the child's parents have been terminated, or where the child has resided or been domiciled.

(b) In all Indian child custody proceedings, as defined in the federal Indian Child Welfare Act, the court shall consider all of the findings contained in subdivision (a), strive to promote the stability and security of Indian tribes and families, comply with the federal Indian Child Welfare Act, and seek to protect the best interest of the child. Whenever an Indian child is removed from a foster care home or institution, guardianship, or adoptive placement for the purpose of further foster care, guardianship, or adoptive placement, placement of the child shall be in accordance with the Indian Child Welfare Act.

(c) A determination by an Indian tribe that an unmarried person, who is under the age of 18 years, is either (1) a member of an Indian tribe or (2) eligible for membership in an Indian tribe and a biological child of a member of an Indian tribe shall constitute a significant political affiliation with the tribe and shall require the application of the federal Indian Child Welfare Act to the proceedings.

(d) In any case in which this code or other applicable state or federal law provides a higher standard of protection to the rights of the parent

or Indian custodian of an Indian child, or the Indian child's tribe, than the rights provided under the Indian Child Welfare Act, the court shall apply the higher state or federal standard.

(e) Any Indian child, the Indian child's tribe, or the parent or Indian custodian from whose custody the child has been removed, may petition the court to invalidate an action in an Indian child custody proceeding for foster care or guardianship placement or termination of parental rights if the action violated Sections 1911, 1912, and 1913 of the Indian Child Welfare Act.

SEC. 18. Section 1459.5 is added to the Probate Code, to read:

1459.5. (a) The Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) shall apply to the following guardianship or conservatorship proceedings under this division when the proposed ward or conservatee is an Indian child:

(1) In any case in which the petition is a petition for guardianship of the person and the proposed guardian is not the natural parent or Indian custodian of the proposed ward, unless the proposed guardian has been nominated by the natural parents pursuant to Section 1500 and the parents retain the right to have custody of the child returned to them upon demand.

(2) To a proceeding to have an Indian child declared free from the custody and control of one or both parents brought in a guardianship proceeding.

(3) In any case in which the petition is a petition for conservatorship of the person of a minor whose marriage has been dissolved, the proposed conservator is seeking physical custody of the minor, the proposed conservator is not the natural parent or Indian custodian of the proposed conservatee and the natural parent or Indian custodian does not retain the right to have custody of the child returned to them upon demand.

(b) When the Indian Child Welfare Act applies to a proceeding under this division, the court shall apply Sections 224.3 to 224.6, inclusive, and Sections 305.5, 361.31, and 361.7 of the Welfare and Institutions Code, and the following rules from the California Rules of Court, as they read on January 1, 2005:

(1) Paragraph (7) of subdivision (b) of Rule 1410.

(2) Subdivision (i) of Rule 1412.

(c) In the provisions cited in subdivision (b), references to social workers, probation officers, county welfare department, or probation department shall be construed as meaning the party seeking a foster care placement, guardianship, or adoption.

SEC. 19. Section 1460.2 is added to the Probate Code, to read:

1460.2. (a) If the court or petitioner knows or has reason to know that the proposed ward or conservatee may be an Indian child, notice

shall comply with subdivision (b) in any case in which the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) applies, as specified in Section 1459.5.

(b) Any notice sent under this section shall be sent to the minor's parent or legal guardian, Indian custodian, if any, and the Indian child's tribe, and shall comply with all of the following requirements:

(1) Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.

(2) Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.

(3) Notice shall be sent to all tribes of which the child may be a member or eligible for membership until the court makes a determination as to which tribe is the Indian child's tribe in accordance with subdivision (d) of Section 1449, after which notice need only be sent to the tribe determined to be the Indian child's tribe.

(4) Notice, to the extent required by federal law, shall be sent to the Secretary of the Interior's designated agent, the Sacramento Area Director, Bureau of Indian Affairs. If the identity or location of the Indian child's tribe is known, a copy of the notice shall also be sent directly to the Secretary of the Interior, unless the Secretary of the Interior has waived the notice in writing and the person responsible for giving notice under this section has filed proof of the waiver with the court.

(5) The notice shall include all of the following information:

(A) The name, birthdate, and birthplace of the Indian child, if known.

(B) The name of any Indian tribe in which the child is a member or may be eligible for membership, if known.

(C) All names known of the Indian child's biological parents, grandparents and great-grandparents or Indian custodians, including maiden, married, and former names or aliases, as well as their current and former addresses, birthdates, places of birth and death, tribal enrollment numbers, and any other identifying information, if known.

(D) A copy of the petition.

(E) A copy of the child's birth certificate, if available.

(F) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(G) A statement of the following:

(i) The absolute right of the child's parents, Indian custodians, and tribe to intervene in the proceeding.

(ii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.

(iii) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.

(iv) The potential legal consequences of the proceedings on the future custodial rights of the child's parents or Indian custodians.

(v) That if the parents or Indian custodians are unable to afford counsel, counsel shall be appointed to represent the parents or Indian custodians pursuant to Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(vi) That the information contained in the notice, petition, pleading, and other court documents is confidential, so any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(c) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing thereafter, including, but not limited to, the hearing at which a final adoption order is to be granted. After a tribe acknowledges that the child is a member or eligible for membership in the tribe, or after the Indian child's tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (G) of paragraph (5) of subdivision (b) need not be included with the notice.

(d) Proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing except as permitted under subdivision (e).

(e) No proceeding shall be held until at least 10 days after receipt of notice by the parent, Indian custodian, the tribe or the Bureau of Indian Affairs. The parent, Indian custodian, or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding. Nothing herein shall be construed as limiting the rights of the parent, Indian custodian, or tribe to 10 days' notice when a lengthier notice period is required by statute.

(f) With respect to giving notice to Indian tribes, a party shall be subject to court sanctions if that person knowingly and willfully falsifies or conceals a material fact concerning whether the child is an Indian child, or counsels a party to do so.

(g) The inclusion of contact information of any adult or child that would otherwise be required to be included in the notification pursuant to this section, shall not be required if that person is at risk of harm as a result of domestic violence, child abuse, sexual abuse, or stalking.

SEC. 20. Section 1474 is added to the Probate Code, to read:

1474. If an Indian custodian or biological parent of an Indian child lacks the financial ability to retain counsel and requests the appointment of counsel in proceedings described in Section 1459.5, the provisions of subsection (b) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section 23.13 of Title 25 of the Code of Federal Regulations are applicable.

SEC. 21. Section 1500.1 is added to the Probate Code, to read:

1500.1. (a) Notwithstanding any other section in this part, and in accordance with Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), consent to nomination of a guardian of the person or of a guardian of the person and the estate given by an Indian child's parent is not valid unless both of the following occur:

(1) The consent is executed in writing at least 10 days after the child's birth and recorded before a judge.

(2) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(b) The parent of an Indian child may withdraw his or her consent to guardianship for any reason at any time prior to the issuance of letters of guardianship and the child shall be returned to the parent.

SEC. 22. Section 1510 of the Probate Code is amended to read:

1510. (a) A relative or other person on behalf of the minor, or the minor if 12 years of age or older, may file a petition for the appointment of a guardian of the minor.

(b) The petition shall request that a guardian of the person or estate of the minor, or both, be appointed, shall specify the name and address of the proposed guardian and the name and date of birth of the proposed ward, and shall state that the appointment is necessary or convenient.

(c) The petition shall set forth, so far as is known to the petitioner, the names and addresses of all of the following:

(1) The parents of the proposed ward.

(2) The person having legal custody of the proposed ward and, if that person does not have the care of the proposed ward, the person having the care of the proposed ward.

(3) The relatives of the proposed ward within the second degree.

(4) In the case of a guardianship of the estate, the spouse of the proposed ward.

(5) Any person nominated as guardian for the proposed ward under Section 1500 or 1501.

(6) In the case of a guardianship of the person involving an Indian child, any Indian custodian and the Indian child's tribe.

(d) If the proposed ward is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed ward.

(f) If the petitioner has knowledge of any pending adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceeding affecting the proposed ward, the petition shall disclose the pending proceeding.

(g) If the petitioners have accepted or intend to accept physical care or custody of the child with intent to adopt, whether formed at the time of placement or formed subsequent to placement, the petitioners shall so state in the guardianship petition, whether or not an adoption petition has been filed.

(h) If the proposed ward is or becomes the subject of an adoption petition, the court shall order the guardianship petition consolidated with the adoption petition.

(i) If the proposed ward is or may be an Indian child, the petition shall state that fact.

SEC. 23. Section 1511 of the Probate Code is amended to read:

1511. (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the petition for the appointment of a guardian, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, or in any manner authorized by the court, on all of the following persons:

(1) The proposed ward if 12 years of age or older.

(2) Any person having legal custody of the proposed ward, or serving as guardian of the estate of the proposed ward.

(3) The parents of the proposed ward.

(4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.

(c) Notice shall be given by mail sent to their addresses stated in the petition, or in any manner authorized by the court, to all of the following:

(1) The spouse named in the petition.

(2) The relatives named in the petition, except that if the petition is for the appointment of a guardian of the estate only the court may dispense with the giving of notice to any one or more or all of the relatives.

(3) The person having the care of the proposed ward if other than the person having legal custody of the proposed ward.

(d) If notice is required by Section 1461 or Section 1542 to be given to the Director of Mental Health or the Director of Developmental Services or the Director of Social Services, notice shall be mailed as so required.

(e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(f) Unless the court orders otherwise, notice shall not be given to any of the following:

(1) The parents or other relatives of a proposed ward who has been relinquished to a licensed adoption agency.

(2) The parents of a proposed ward who has been judicially declared free from their custody and control.

(g) Notice need not be given to any person if the court so orders upon a determination of either of the following:

(1) The person cannot with reasonable diligence be given the notice.

(2) The giving of the notice would be contrary to the interest of justice.

(h) Before the appointment of a guardian is made, proof shall be made to the court that each person entitled to notice under this section either:

(1) Has been given notice as required by this section.

(2) Has not been given notice as required by this section because the person cannot with reasonable diligence be given the notice or because the giving of notice to that person would be contrary to the interest of justice.

(i) If notice is required by Section 1460.2 to be given to an Indian custodian or tribe, notice shall be mailed as so required.

SEC. 24. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall

include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

(d) The report authorized by this section is confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The clerk of the court shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) For the purpose of writing the report authorized by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify information regarding these records pursuant to the

investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.26 of the Welfare and Institutions Code.

(g) For purposes of this section, a "relative" means a person who is a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even after the marriage has been terminated by death or dissolution.

(h) In an Indian child custody proceeding, the person making the investigation and report shall consult with the Indian child's tribe and include in the report information provided by the tribe.

SEC. 25. Section 1516.5 of the Probate Code is amended to read:

1516.5. (a) A proceeding to have a child declared free from the custody and control of one or both parents may be brought in the guardianship proceeding pursuant to Part 4 (commencing with Section 7800) of Division 12 of the Family Code, if all of the following requirements are satisfied:

(1) One or both parents do not have the legal custody of the child.

(2) The child has been in the physical custody of the guardian for a period of not less than two years.

(3) The court finds that the child would benefit from being adopted by his or her guardian. In making this determination, the court shall consider all factors relating to the best interest of the child, including, but not limited to, the nature and extent of the relationship between all of the following:

(A) The child and the birth parent.

(B) The child and the guardian, including family members of the guardian.

(C) The child and any siblings or half-siblings.

(b) The court shall appoint a court investigator or other qualified professional to investigate all factors enumerated in subdivision (a). The findings of the investigator or professional regarding those issues shall be included in the written report required pursuant to Section 7851 of the Family Code.

(c) The rights of the parent, including the rights to notice and counsel provided in Part 4 (commencing with Section 7800) of Division 12 of the Family Code, shall apply to actions brought pursuant to this section.

(d) This section does not apply to any child who is a dependent of the juvenile court or to any Indian child.

SEC. 26. Section 1601 of the Probate Code is amended to read:

1601. Upon petition of the guardian, a parent, the ward, or, in the case of an Indian child custody proceeding, an Indian custodian or the ward's tribe, the court may make an order terminating the guardianship if the court determines that it is in the ward's best interest to terminate the guardianship. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

SEC. 27. Section 2112 of the Probate Code is repealed.

SEC. 28. Section 110 is added to the Welfare and Institutions Code, to read:

110. Nothing in this chapter shall be construed as limiting the right of an Indian tribe or Indian organization to establish or operate CASA programs independent of state funding or the discretion of the court to appoint CASAs from those programs in Indian child custody proceedings.

SEC. 29. Section 224 is added to the Welfare and Institutions Code, to read:

224. (a) The Legislature finds and declares the following:

(1) There is no resource that is more vital to the continued existence and integrity of Indian tribes than their children, and the State of California has an interest in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and other applicable law, designed to prevent the child's involuntary out-of-home placement and, whenever that placement is necessary or ordered, by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

(2) It is in the interest of an Indian child that the child's membership in the child's Indian tribe and connection to the tribal community be encouraged and protected, regardless of whether the child is in the physical custody of an Indian parent or Indian custodian at the commencement of a child custody proceeding, the parental rights of the child's parents have been terminated, or where the child has resided or been domiciled.

(b) In all Indian child custody proceedings, as defined in the federal Indian Child Welfare Act the court shall consider all of the findings contained in subdivision (a), strive to promote the stability and security of Indian tribes and families, comply with the federal Indian Child Welfare Act, and seek to protect the best interest of the child. Whenever an Indian child is removed from a foster care home or institution,

guardianship, or adoptive placement for the purpose of further foster care, guardianship, or adoptive placement, placement of the child shall be in accordance with the Indian Child Welfare Act.

(c) A determination by an Indian tribe that an unmarried person, who is under the age of 18 years, is either (1) a member of an Indian tribe or (2) eligible for membership in an Indian tribe and a biological child of a member of an Indian tribe shall constitute a significant political affiliation with the tribe and shall require the application of the federal Indian Child Welfare Act to the proceedings.

(d) In any case in which this code or other applicable state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child, or the Indian child's tribe, than the rights provided under the Indian Child Welfare Act, the court shall apply the higher standard.

(e) Any Indian child, the Indian child's tribe, or the parent or Indian custodian from whose custody the child has been removed, may petition the court to invalidate an action in an Indian child custody proceeding for foster care or guardianship placement or termination of parental rights if the action violated Sections 1911, 1912, and 1913 of the Indian Child Welfare Act.

SEC. 30. Section 224.1 is added to the Welfare and Institutions Code, to read:

224.1. (a) As used in this division, unless the context otherwise requires, the terms "Indian," "Indian child," "Indian child's tribe," "Indian custodian," "Indian tribe," "reservation," and "tribal court" shall be defined as provided in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(b) As used in connection with an Indian child custody proceeding, the terms "extended family member" and "parent" shall be defined as provided in Section 1903 of the Indian Child Welfare Act.

(c) "Indian child custody proceeding" means a "child custody proceeding" within the meaning of Section 1903 of the Indian Child Welfare Act, including a proceeding for temporary or long-term foster care or guardianship placement, termination of parental rights, preadoptive placement after termination of parental rights, or adoptive placement. "Indian child custody proceeding" does not include a voluntary foster care or guardianship placement if the parent or Indian custodian retains the right to have the child returned upon demand.

(d) If an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe, the court shall make a determination, in writing together with the reasons for it, as to which tribe is the Indian child's tribe for purposes of the Indian child custody proceeding. The court shall make that determination as follows:

(1) If the Indian child is or becomes a member of only one tribe, that tribe shall be designated as the Indian child's tribe, even though the child is eligible for membership in another tribe.

(2) If an Indian child is or becomes a member of more than one tribe, or is not a member of any tribe but is eligible for membership in more than one tribe, the tribe with which the child has the more significant contacts shall be designated as the Indian child's tribe. In determining which tribe the child has the more significant contacts with, the court shall consider, among other things, the following factors:

(A) The length of residence on or near the reservation of each tribe and frequency of contact with each tribe.

(B) The child's participation in activities of each tribe.

(C) The child's fluency in the language of each tribe.

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(E) Residence on or near one of the tribes' reservations by the child parents, Indian custodian or extended family members.

(F) Tribal membership of custodial parent or Indian custodian.

(G) Interest asserted by each tribe in response to the notice specified in Section 224.2.

(H) The child's self-identification.

(3) If an Indian child becomes a member of a tribe other than the one designated by the court as the Indian child's tribe under paragraph (2), actions taken based on the court's determination prior to the child's becoming a tribal member continue to be valid.

SEC. 31. Section 224.2 is added to the Welfare and Institutions Code, to read:

224.2. (a) If the court, a social worker, or probation officer knows or has reason to know that an Indian child is involved, any notice sent in an Indian child custody proceeding under this code shall be sent to the minor's parents or legal guardian, Indian custodian, if any, and the minor's tribe and comply with all of the following requirements:

(1) Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.

(2) Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.

(3) Notice shall be sent to all tribes of which the child may be a member or eligible for membership, until the court makes a determination as to which tribe is the child's tribe in accordance with subdivision (d) of Section 224.1, after which notice need only be sent to the tribe determined to be the Indian child's tribe.

(4) Notice, to the extent required by federal law, shall be sent to the Secretary of the Interior's designated agent, the Sacramento Area Director, Bureau of Indian Affairs. If the identity or location of the parents, Indian custodians, or the minor's tribe is known, a copy of the notice shall also be sent directly to the Secretary of the Interior, unless the Secretary of the Interior has waived the notice in writing and the person responsible for giving notice under this section has filed proof of the waiver with the court.

(5) In addition to the information specified in other sections of this article, notice shall include all of the following information:

(A) The name, birthdate, and birthplace of the Indian child, if known.

(B) The name of the Indian tribe in which the child is a member or may be eligible for membership, if known.

(C) All names known of the Indian child's biological parents, grandparents, and great-grandparents, or Indian custodians, including maiden, married and former names or aliases, as well as their current and former addresses, birthdates, places of birth and death, tribal enrollment numbers, and any other identifying information, if known.

(D) A copy of the petition by which the proceeding was initiated.

(E) A copy of the child's birth certificate, if available.

(F) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(G) A statement of the following:

(i) The absolute right of the child's parents, Indian custodians, and tribe to intervene in the proceeding.

(ii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.

(iii) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.

(iv) The potential legal consequences of the proceedings on the future custodial and parental rights of the child's parents or Indian custodians.

(v) That if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent the parents or Indian custodians pursuant to Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(vi) That the information contained in the notice, petition, pleading, and other court documents is confidential, so any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal it to anyone

who does not need the information in order to exercise the tribe's rights under the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(b) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing thereafter, including, but not limited to, the hearing at which a final adoption order is to be granted, unless it is determined that the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) does not apply to the case in accordance with Section 224.3. After a tribe acknowledges that the child is a member or eligible for membership in that tribe, or after a tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (G) of paragraph (5) of subdivision (a) need not be included with the notice.

(c) Proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing except as permitted under subdivision (d).

(d) No proceeding shall be held until at least 10 days after receipt of notice by the parent, Indian custodian, the tribe, or the Bureau of Indian Affairs, except for the detention hearing, provided that notice of the detention hearing shall be given as soon as possible after the filing of the petition initiating the proceeding and proof of the notice is filed with the court within 10 days after the filing of the petition. With the exception of the detention hearing, the parent, Indian custodian, or the tribe shall, upon request, be granted up to 20 additional days to prepare for that proceeding. Nothing herein shall be construed as limiting the rights of the parent, Indian custodian, or tribe to more than 10 days notice when a lengthier notice period is required by statute.

(e) With respect to giving notice to Indian tribes, a party shall be subject to court sanctions if that person knowingly and willfully falsifies or conceals a material fact concerning whether the child is an Indian child, or counsels a party to do so.

(f) The inclusion of contact information of any adult or child that would otherwise be required to be included in the notification pursuant to this section, shall not be required if that person is at risk of harm as a result of domestic violence, child abuse, sexual abuse, or stalking.

SEC. 32. Section 224.3 is added to the Welfare and Institutions Code, to read:

224.3. (a) The court, county welfare department, and the probation department have an affirmative and continuing duty to inquire whether a child for whom a petition under Section 300, 601, or 602 is to be, or has been, filed is or may be an Indian child in all dependency proceedings and in any juvenile wardship proceedings if the child is at risk of entering foster care or is in foster care.

(b) The circumstances that may provide reason to know the child is an Indian child include, but are not limited to, the following:

(1) A person having an interest in the child, including the child, an officer of the court, a tribe, an Indian organization, a public or private agency, or a member of the child's extended family provides information suggesting the child is a member of a tribe or eligible for membership in a tribe or one or more of the child's biological parents, grandparents, or great-grandparents are or were a member of a tribe.

(2) The residence or domicile of the child, the child's parents, or Indian custodian is in a predominantly Indian community.

(3) The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

(c) If the court, social worker, or probation officer knows or has reason to know that an Indian child is involved, the social worker or probation officer is required to make further inquiry regarding the possible Indian status of the child, and to do so as soon as practicable, by interviewing the parents, Indian custodian, and extended family members to gather the information required in paragraph (5) of subdivision (a) of Section 224.2, contacting the Bureau of Indian Affairs and the State Department of Social Services for assistance in identifying the names and contact information of the tribes in which the child may be a member or eligible for membership in and contacting the tribes and any other person that reasonably can be expected to have information regarding the child's membership status or eligibility.

(d) If the court, social worker, or probation officer knows or has reason to know that an Indian child is involved, the social worker or probation officer shall provide notice in accordance with paragraph (5) of subdivision (a) of Section 224.2.

(e) (1) A determination by an Indian tribe that a child is or is not a member of or eligible for membership in that tribe, or testimony attesting to that status by a person authorized by the tribe to provide that determination, shall be conclusive. Information that the child is not enrolled or eligible for enrollment in the tribe is not determinative of the child's membership status unless the tribe also confirms in writing that enrollment is a prerequisite for membership under tribal law or custom.

(2) In the absence of a contrary determination by the tribe, a determination by the Bureau of Indian Affairs that a child is or is not a member of or eligible for membership in that tribe is conclusive.

(3) If proper and adequate notice has been provided pursuant to Section 224.2, and neither a tribe nor the Bureau of Indian Affairs has provided a determinative response within 60 days after receiving that notice, the court may determine that the Indian Child Welfare Act (25

U.S.C. Sec. 1901 et seq.) does not apply to the proceedings, provided that the court shall reverse its determination of the inapplicability of the Indian Child Welfare Act and apply the act prospectively if a tribe or the Bureau of Indian Affairs subsequently confirms that the child is an Indian child.

(f) Notwithstanding a determination that the Indian Child Welfare Act does not apply to the proceedings made in accordance with subdivision (e), if the court, social worker, or probation officer subsequently receives any information required under paragraph (5) of subdivision (a) of Section 224.2 that was not previously available or included in the notice issued under Section 224.2, the social worker or probation officer shall provide the additional information to any tribes entitled to notice under paragraph (3) of subdivision (a) of Section 224.2 and the Bureau of Indian Affairs.

SEC. 33. Section 224.4 is added to the Welfare and Institutions Code, to read:

224.4. The Indian child's tribe and Indian custodian have the right to intervene at any point in an Indian child custody proceeding.

SEC. 34. Section 224.5 is added to the Welfare and Institutions Code, to read:

224.5. In an Indian child custody proceeding, the court shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to the proceeding to the same extent that such entities give full faith and credit to the public acts, records, judicial proceedings, and judgments of any other entity.

SEC. 35. Section 224.6 is added to the Welfare and Institutions Code, to read:

224.6. (a) When testimony of a "qualified expert witness" is required in an Indian child custody proceeding, a "qualified expert witness" may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, tribal spiritual leader, tribal historian, or tribal elder, provided the individual is not an employee of the person or agency recommending foster care placement or termination of parental rights.

(b) In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall:

(1) Require that a qualified expert witness testify regarding whether continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(2) Consider evidence concerning the prevailing social and cultural standards of the Indian child's tribe, including that tribe's family organization and child-rearing practices.

(c) Persons with the following characteristics are most likely to meet the requirements for a qualified expert witness for purposes of Indian child custody proceedings:

(1) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.

(2) Any expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(3) A professional person having substantial education and experience in the area of his or her specialty.

(d) The court or any party may request the assistance of the Indian child's tribe or Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

(e) The court may accept a declaration or affidavit from a qualified expert witness in lieu of testimony only if the parties have so stipulated in writing and the court is satisfied the stipulation is made knowingly, intelligently, and voluntarily.

SEC. 36. Section 290.1 of the Welfare and Institutions Code is amended to read:

290.1. If the probation officer or social worker determines that the child shall be retained in custody, he or she shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court, who shall set the matter for hearing on the detention hearing calendar. The probation officer or social worker shall serve notice as prescribed in this section.

(a) Notice shall be given to the following persons whose whereabouts are known or become known prior to the initial petition hearing:

(1) The mother.

(2) The father or fathers, presumed and alleged.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) If there is no parent or guardian residing in California, or if the residence is unknown, then to any adult relative residing within the county or if none, the adult relative residing nearest the court.

(7) The attorney for the parent or parents, or legal guardian or guardians.

(8) The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(9) The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice shall be given as soon as possible after the filing of the petition.

(d) The notice of the initial petition hearing shall include all of the following:

(1) The date, time, and place of the hearing.

(2) The name of the child.

(3) A copy of the petition.

(e) Service of the notice shall be written or oral. If the person being served cannot read, notice shall be given orally.

(f) If the probation officer or social worker knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 37. Section 290.2 of the Welfare and Institutions Code is amended to read:

290.2. Upon the filing of a petition by a probation officer or social worker, the clerk of the juvenile court shall issue notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served as prescribed in this section.

(a) Notice shall be given to the following persons whose address is known or becomes known prior to the initial petition hearing:

(1) The mother.

(2) The father or fathers, presumed and alleged.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to

be given to any sibling whose matter is calendared in the same court on the same day.

(6) If there is no parent or guardian residing in California, or if the residence is unknown, to any adult relative residing within the county or if none, the adult relative residing nearest the court.

(7) Upon reasonable notification by counsel representing the child, parent, or guardian, the clerk of the court shall give notice to that counsel as soon as possible.

(8) The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(9) The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) Notice shall be served as follows:

(1) If the child is retained in custody, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set to be heard in less than five days in which case notice shall be given at least 24 hours prior to the hearing.

(2) If the child is not retained in custody, the notice shall be given to those persons required to be noticed at least 10 days prior to the date of the hearing. If any person who is required to be given notice is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition by first-class mail, to that person as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice is not cause for an arrest or detention. In the instance of a failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition be personally served on all persons required to receive the notice and copy of the petition. For these purposes, personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at, or prior to, the hearing.

(d) The notice of the initial petition hearing shall include all of the following:

(1) The date, time, and place of the hearing.

(2) The name of the child.

(3) A copy of the petition.

(e) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 38. Section 291 of the Welfare and Institutions Code is amended to read:

291. After the initial petition hearing, the clerk of the court shall cause the notice to be served in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The father or fathers, presumed and alleged.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) Each attorney of record unless counsel of record is present in court when the hearing is scheduled, then no further notice need be given.

(7) If there is no parent or guardian residing in California, or if the residence is unknown, then to any adult relative residing within the county or if none, the adult relative residing nearest the court.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) Notice shall be served as follows:

(1) If the child is detained, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set less than five days and then at least 24 hours prior to the hearing.

(2) If the child is not detained, the notice shall be given to those persons required to be noticed at least 10 days prior to the date of the hearing.

(d) The notice shall include all of the following:

(1) The name and address of the person notified.

(2) The nature of the hearing.

(3) Each section and subdivision under which the proceeding has been initiated.

(4) The date, time, and place of the hearing.

(5) The name of the child upon whose behalf the petition has been brought.

(6) A statement that:

(A) If they fail to appear, the court may proceed without them.

(B) The child, parent, guardian, Indian custodian, or adult relative to whom notice is required to be given is entitled to have an attorney present at the hearing.

(C) If the parent, guardian, Indian custodian, or adult relative is indigent and cannot afford an attorney, and desires to be represented by an attorney, the parent, guardian, Indian custodian, or adult relative shall promptly notify the clerk of the juvenile court.

(D) If an attorney is appointed to represent the parent, guardian, Indian custodian, or adult relative, the represented person shall be liable for all or a portion of the costs to the extent of his or her ability to pay.

(E) The parent, guardian, Indian custodian, or adult relative may be liable for the costs of support of the child in any out-of-home placement.

(7) A copy of the petition.

(e) Service of the notice of the hearing shall be given in the following manner:

(1) If the child is detained and the persons required to be noticed are not present at the initial petition hearing, they shall be noticed by personal service or by certified mail, return receipt requested.

(2) If the child is detained and the persons required to be noticed are present at the initial petition hearing, they shall be noticed by personal service or by first-class mail.

(3) If the child is not detained, the persons required to be noticed shall be noticed by personal service or by first-class mail, unless the person to be served is known to reside outside the county, in which case service shall be by first-class mail.

(f) Any of the notices required to be given under this section or Sections 290.1 and 290.2 may be waived by a party in person or through his or her attorney, or by a signed written waiver filed on or before the date scheduled for the hearing.

(g) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 39. Section 292 of the Welfare and Institutions Code is amended to read:

292. The social worker or probation officer shall give notice of the review hearing held pursuant to Section 364 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father or any father receiving services.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has

been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) Each attorney of record, if that attorney was not present at the time that the hearing was set by the court.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of the hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. The notice shall also include a statement that the child and the parent or parents or legal guardian or guardians have a right to be present at the hearing, to be represented by counsel at the hearing and the procedure for obtaining appointed counsel, and to present evidence regarding the proper disposition of the case. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(e) Service of the notice shall be by personal service, by first-class mail, or by certified mail, return receipt requested, addressed to the last known address of the person to be noticed.

(f) If the social worker or the probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 40. Section 293 of the Welfare and Institutions Code is amended to read:

293. The social worker or probation officer shall give notice of the review hearings held pursuant to Section 366.21 or 366.22 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father or any father receiving services.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's

caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) In the case of a child removed from the physical custody of his or her parent or legal guardian, the foster parents, relative caregivers, community care facility, or foster family agency having custody of the child. In a case in which a foster family agency is notified of the hearing pursuant to this section, and the child resides in a foster home certified by the foster family agency, the foster family agency shall provide timely notice of the hearing to the child's caregivers.

(7) Each attorney of record if that attorney was not present at the time that the hearing was set by the court.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. If the notice is to the child, parent or parents, or legal guardian or guardians, the notice shall also advise them of the right to be present, the right to be represented by counsel, the right to request counsel, and the right to present evidence. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(e) Service of the notice shall be by first-class mail addressed to the last known address of the person to be noticed or by personal service on the person. Service of a copy of the notice shall be by personal service or by certified mail, return receipt requested, or any other form of notice that is equivalent to service by first-class mail.

(f) Notice to a foster parent, a relative caregiver, a certified foster parent who has been approved for adoption, 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 or by a licensed county adoption agency, shall indicate that the person notified may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(g) If the social worker or probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 41. Section 294 of the Welfare and Institutions Code is amended to read:

294. The social worker or probation officer shall give notice of a selection and implementation hearing held pursuant to Section 366.26 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The fathers, presumed and alleged.

(3) The child, if the child is 10 years of age or older.

(4) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(5) The grandparents of the child, if their address is known and if the parent's whereabouts are unknown.

(6) All counsel of record.

(7) To any unknown parent by publication, if ordered by the court pursuant to paragraph (2) of subdivision (g).

(b) The following persons shall not be notified of the hearing:

(1) A parent who has relinquished the child to the State Department of Social Services or to a licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under Section 8700 of the Family Code.

(2) An alleged father who has denied paternity and has executed a waiver of the right to notice of further proceedings.

(3) A parent whose parental rights have been terminated.

(c) (1) Service of the notice shall be completed at least 45 days before the hearing date. Service is deemed complete at the time the notice is personally delivered to the person named in the notice or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication.

(2) Service of notice in cases where publication is ordered shall be completed at least 30 days before the date of the hearing.

(d) Regardless of the type of notice required, or the manner in which it is served, once the court has made the initial finding that notice has properly been given to the parent, or to any person entitled to receive notice pursuant to this section, subsequent notice for any continuation of a Section 366.26 hearing may be by first-class mail to any last known address, by an order made pursuant to Section 296, or by any other means that the court determines is reasonably calculated, under any circumstance, to provide notice of the continued hearing. However, if

the recommendation changes from the recommendation contained in the notice previously found to be proper, notice shall be provided to the parent, and to any person entitled to receive notice pursuant to this section, regarding that subsequent hearing.

(e) The notice shall contain the following information:

(1) The date, time, and place of the hearing.

(2) The right to appear.

(3) The parents' right to counsel.

(4) The nature of the proceedings.

(5) The recommendation of the supervising agency.

(6) A statement that, at the time of hearing, the court is required to select a permanent plan of adoption, legal guardianship, or long-term foster care for the child.

(f) Notice to the parents may be given in any one of the following manners:

(1) If the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings, their right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the child. The court shall direct the parent to appear for the proceedings and then direct that the parent be notified thereafter by first-class mail to the parent's usual place of residence or business only.

(2) Certified mail, return receipt requested, to the parent's last known mailing address. This notice shall be sufficient if the child welfare agency receives a return receipt signed by the parent.

(3) Personal service to the parent named in the notice.

(4) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.

(5) If the residence of the parent is outside the state, service may be made as described in paragraph (1), (3), or (4) or by certified mail, return receipt requested.

(6) If the recommendation of the probation officer or social worker is legal guardianship or long-term foster care, service may be made by first-class mail to the parent's usual place of residence or business.

(7) If a parent's identity is known but his or her whereabouts are unknown and the parent cannot, with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive, the petitioner shall file an affidavit with the court at least 75 days before the hearing

date, stating the name of the parent and describing the efforts made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends adoption, service shall be to that parent's attorney of record, if any, by certified mail, return receipt requested. If the parent does not have an attorney of record, the court shall order that service be made by publication of citation requiring the parent to appear at the date, time, and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the parent. Publication shall be made once a week for four consecutive weeks. Whether notice is to the attorney of record or by publication, the court shall also order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice is required to the parent, but the court shall order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.

(C) In any case where the residence of the parent becomes known, notice shall immediately be served upon the parent as provided for in either paragraph (2), (3), (4), (5), or (6).

(g) (1) If the identity of one or both of the parents, or alleged parents, of the child is unknown, or if the name of one or both parents is uncertain, then that fact shall be set forth in the affidavit filed with the court at least 75 days before the hearing date and the court, consistent with the provisions of Sections 7665 and 7666 of the Family Code, shall issue an order dispensing with notice to a natural parent or possible natural parent under this section if, after inquiry and a determination that there has been due diligence in attempting to identify the unknown parent, the court is unable to identify the natural parent or possible natural parent and no person has appeared claiming to be the natural parent.

(2) After a determination that there has been due diligence in attempting to identify an unknown parent pursuant to paragraph (1) and the probation officer or social worker recommends adoption, the court shall consider whether publication notice would be likely to lead to actual notice to the unknown parent. The court may order publication notice if, on the basis of all information before the court, the court determines that notice by publication is likely to lead to actual notice to the parent. If publication notice to an unknown parent is ordered, the court shall order the published citation to be directed to either the father or mother, or both, of the child, and to all persons claiming to be the father or mother

of the child, naming and otherwise describing the child. An order of publication pursuant to this paragraph shall be based on an affidavit describing efforts made to identify the unknown parent or parents. Service made by publication pursuant to this paragraph shall require the unknown parent or parents to appear at the date, time, and place stated in the citation. Publication shall be made once a week for four consecutive weeks.

(3) If the court determines that there has been due diligence in attempting to identify one or both of the parents, or alleged parents, of the child and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice to the parent shall be required.

(h) Notice to the child and all counsel of record shall be by first-class mail.

(i) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

(j) Notwithstanding subdivision (a), if the attorney of record is present at the time the court schedules a hearing pursuant to Section 366.26, no further notice is required, except as required by subparagraph (A) of paragraph (7) of subdivision (f).

(k) This section shall also apply to children adjudged wards pursuant to Section 727.31.

(*l*) The court shall state the reasons on the record explaining why good cause exists for granting any continuance of a hearing held pursuant to Section 366.26 to fulfill the requirements of this section.

SEC. 42. Section 295 of the Welfare and Institutions Code is amended to read:

295. The social worker or probation officer shall give notice of review hearings held pursuant to Section 366.3 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) The foster parents, relative caregivers, community care facility, or foster family agency having physical custody of the child in the case of a child removed from the physical custody of the parents or legal guardian.

(7) The attorney of record if that attorney of record was not present at the time that the hearing was set by the court.

(8) The alleged father or fathers, but only if the recommendation is to set a new hearing pursuant to Section 366.26.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of the review hearing shall be served no earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice of the review hearing shall contain a statement regarding the nature of the hearing to be held, any recommended change in the custody or status of the child, and any recommendation that the court set a new hearing pursuant to Section 366.26 in order to select a more permanent plan.

(e) Service of notice shall be by first-class mail addressed to the last known address of the person to be provided notice.

(f) If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition to terminate or modify the guardianship is filed, the probation officer or social worker shall serve notice of the petition not less than 15 court days prior to the hearing on all persons listed in subdivision (a) and on the court that established legal guardianship if it is in another county.

(g) If the social worker or probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 42.5. Section 295 of the Welfare and Institutions Code is amended to read:

295. The social worker or probation officer shall give notice of review hearings held pursuant to Section 366.3 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to

be given to any sibling whose matter is calendared in the same court on the same day.

(6) The foster parents, relative caregivers, community care facility, or foster family agency having physical custody of the child if a child is removed from the physical custody of the parents or legal guardian. The person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.

(7) The attorney of record if that attorney of record was not present at the time that the hearing was set by the court.

(8) The alleged father or fathers, but only if the recommendation is to set a new hearing pursuant to Section 366.26.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of the review hearing shall be served no earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice of the review hearing shall contain a statement regarding the nature of the hearing to be held, any recommended change in the custody or status of the child, and any recommendation that the court set a new hearing pursuant to Section 366.26 in order to select a more permanent plan.

(e) Service of notice shall be by first-class mail addressed to the last known address of the person to be provided notice. In the case of an Indian child, notice shall be by registered mail, return receipt requested.

(f) If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition to terminate or modify the guardianship is filed, the probation officer or social worker shall serve notice of the petition not less than 15 court days prior to the hearing on all persons listed in subdivision (a) and on the court that established legal guardianship if it is in another county.

(g) If the social worker or probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 43. Section 297 of the Welfare and Institutions Code is amended to read:

297. (a) Notice required for an initial petition filed pursuant to Section 300 is applicable to a subsequent petition filed pursuant to Section 342.

(b) Upon the filing of a supplemental petition pursuant to Section 387, the clerk of the juvenile court shall immediately set the matter for hearing within 30 days of the date of the filing, and the social worker or probation officer shall cause notice thereof to be served upon the persons required by, and in the manner prescribed by, Sections 290.1, 290.2, and 291.

(c) If a petition for modification has been filed pursuant to Section 388, and it appears that the best interest of the child may be promoted by the proposed change of the order, the recognition of a sibling relationship, or the termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record, or if there is no attorney of record for the child, to the child, and his or her parent or parents or legal guardian or guardians in the manner prescribed by Section 291 unless a different manner is prescribed by the court.

(d) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

SEC. 44. Section 305.5 of the Welfare and Institutions Code is amended to read:

305.5. (a) If an Indian child, who is a ward of a tribal court or resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings as recognized in Section 1911 of Title 25 of the United States Code or reassumed exclusive jurisdiction over Indian child custody proceedings pursuant to Section 1918 of Title 25 of the United States Code, has been removed by a state or local authority from the custody of his or her parents or Indian custodian, the state or local authority shall provide notice of the removal to the tribe no later than the next working day following the removal and shall provide all relevant documentation to the tribe regarding the removal and the child's identity. If the tribe determines that the child is an Indian child, the state or local authority shall transfer the child custody proceeding to the tribe within 24 hours after receipt of written notice from the tribe of that determination.

(b) In the case of an Indian child who is not domiciled or residing within a reservation of an Indian tribe or who resides or is domiciled within a reservation of an Indian tribe that does not have exclusive jurisdiction over child custody proceedings pursuant to Section 1911 or 1918 of Title 25 of the United States Code, the court shall transfer the proceeding to the jurisdiction of the child's tribe upon petition of either parent, the Indian custodian, if any, or the child's tribe, unless the court finds good cause not to transfer. The court shall dismiss the proceeding or terminate jurisdiction only after receiving proof that the tribal court has accepted the transfer of jurisdiction. At the time that the court dismisses the proceeding or terminates jurisdiction, the court shall also make an order transferring the physical custody of the child to the tribal court.

(c) (1) If a petition to transfer proceedings as described in subdivision (b) is filed, the court shall find good cause to deny the petition if one or more of the following circumstances are shown to exist:

(A) One or both of the child's parents object to the transfer.

(B) The child's tribe does not have a "tribal court" as defined in Section 1910 of Title 25 of the United States Code.

(C) The tribal court of the child's tribe declines the transfer.

(2) Good cause not to transfer the proceeding may exist if:

(A) The evidence necessary to decide the case cannot be presented in the tribal court without undue hardship to the parties or the witnesses, and the tribal court is unable to mitigate the hardship by making arrangements to receive and consider the evidence or testimony by use of remote communication, by hearing the evidence or testimony at a location convenient to the parties or witnesses, or by use of other means permitted in the tribal court's rules of evidence or discovery.

(B) The proceeding was at an advanced stage when the petition to transfer was received and the petitioner did not file the petition within a reasonable time after receiving notice of the proceeding, provided the notice complied with Section 224.2. It shall not, in and of itself, be considered an unreasonable delay for a party to wait until reunification efforts have failed and reunification services have been terminated before filing a petition to transfer.

(C) The Indian child is over 12 years of age and objects to the transfer.

(D) The parents of the child over five years of age are not available and the child has had little or no contact with the child's tribe or members of the child's tribe.

(3) Socioeconomic conditions and the perceived adequacy of tribal social services or judicial systems may not be considered in a determination that good cause exists.

(4) The burden of establishing good cause to the contrary shall be on the party opposing the transfer. If the court believes, or any party asserts, that good cause to the contrary exists, the reasons for that belief or assertion shall be stated in writing and made available to all parties who are petitioning for the transfer, and the petitioner shall have the opportunity to provide information or evidence in rebuttal of the belief or assertion.

(5) Nothing in this section or Section 1911 or 1918 of Title 25 of the United States Code shall be construed as requiring a tribe to petition the Secretary of the Interior to reassume exclusive jurisdiction pursuant to Section 1918 of Title 25 of the United States Code prior to exercising jurisdiction over a proceeding transferred under subdivision (b).

(d) An Indian child's domicile or place of residence is determined by that of the parent, guardian, or Indian custodian with whom the child

maintained his or her primary place of abode at the time the Indian child custody proceedings were initiated.

(e) If any petitioner in an Indian child custody proceeding has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to his or her parent or Indian custodian, unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of danger.

(f) Nothing in this section shall be construed to prevent the emergency removal of an Indian child who is a ward of a tribal court or resides or is domiciled within a reservation of an Indian tribe, but is temporarily located off the reservation, from a parent or Indian custodian or the emergency placement of the child in a foster home or institution in order to prevent imminent physical damage or harm to the child. The state or local authority shall ensure that the emergency removal or placement terminates immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate an Indian child custody proceeding, transfer the child to the jurisdiction of the Indian child's tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

SEC. 45. Section 306.6 is added to the Welfare and Institutions Code, to read:

306.6. (a) In a dependency proceeding involving a child who would otherwise be an Indian child, based on the definition contained in paragraph (4) of Section 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), but is not an Indian child based on status of the child's tribe, as defined in paragraph (8) of Section 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the court may permit the tribe from which the child is descended to participate in the proceeding upon request of the tribe.

(b) If the court permits a tribe to participate in a proceeding, the tribe may do all of the following, upon consent of the court:

(1) Be present at the hearing.

(2) Address the court.

(3) Request and receive notice of hearings.

(4) Request to examine court documents relating to the proceeding.

(5) Present information to the court that is relevant to the proceeding.

(6) Submit written reports and recommendations to the court.

(7) Perform other duties and responsibilities as requested or approved by the court.

(c) If more than one tribe requests to participate in a proceeding under subdivision (a), the court may limit participation to the tribe with which the child has the most significant contacts, as determined in accordance with paragraph (2) of subdivision (d) of Section 170 of the Family Code.

(d) This section is intended to assist the court in making decisions that are in the best interest of the child by permitting a tribe in the circumstances set out in subdivision (a) to inform the court and parties to the proceeding about placement options for the child within the child's extended family or the tribal community, services and programs available to the child and the child's parents as Indians, and other unique interests the child or the child's parents may have as Indians. This section shall not be construed to make the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), or any state law implementing the Indian Child Welfare Act, applicable to the proceedings, or to limit the court's discretion to permit other interested persons to participate in these or any other proceedings.

(e) The court shall, on a case-by-case basis, make a determination if this section is applicable and may request information from the tribe, or the entity claiming to be a tribe, from which the child is descended for the purposes of making this determination, if the child would otherwise be an Indian child pursuant to subdivision (a).

SEC. 46. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) (1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of subsection (b) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section 23.13 of Title 25 of the Code of Federal Regulations are applicable.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c) Where a child is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its

reasons for that finding. A primary responsibility of any counsel appointed to represent a child pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the child's interests. The fact that the district attorney represents the child in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that assures adequate representation of the child. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

(d) The counsel appointed by the court shall represent the parent, guardian, or child at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, or child unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.

(e) The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial

proceedings. The attorney representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker and is not expected to provide nonlegal services to the child. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(f) Either the child or the counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege; and if the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel for a child shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner as defined in Section 11165.8 of the Penal Code or a child care custodian, as defined in Section 11165.7 of the Penal Code. Notwithstanding any other law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

(g) In a county of the third class, if counsel is to be provided to a child at county expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

(h) In a county of the third class, if counsel is to be appointed for a parent or guardian at county expense, the court shall first utilize the services of the alternate public defender, prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure

requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

SEC. 46.5. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) (1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of subsection (b) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section 23.13 of Title 25 of the Code of Federal Regulations are applicable.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel for the parent or guardian, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c) If a child is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding. A primary responsibility of any counsel appointed to represent a child pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the child's interests. The fact that the district attorney represents the child in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that ensures adequate representation of the child. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

(d) The counsel appointed by the court shall represent the parent, guardian, or child at the detention hearing and at all subsequent

proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, or child unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.

(e) The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. The attorney representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker and is not expected to provide nonlegal services to the child. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(f) Either the child or the counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege; and if the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel for a child shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a

physician and surgeon or other health practitioner, as defined in former Section 11165.8 of the Penal Code, as that section read on January 1, 2000, or a child care custodian, as defined in former Section 11165.7 of the Penal Code, as that section read on January 1, 2000. Notwithstanding any other law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

(g) In a county of the third class, if counsel is to be provided to a child at county expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

(h) In a county of the third class, if counsel is to be appointed for a parent or guardian at county expense, the court shall first utilize the services of the alternate public defender, prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

SEC. 47. Section 360.6 of the Welfare and Institutions Code is repealed.

SEC. 48. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code.

An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

If the court is unable to appoint a responsible adult to make educational decisions for the child and paragraphs (1) to (5), inclusive, do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the Education Code is not warranted, and there is no foster parent to exercise the authority granted by Section 56055 of the Education Code, the court may, with the input of any interested person, make educational decisions for the child.

All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances,

educational and school placement decisions shall be based on the best interests of the child.

(b) Subdivision (a) does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services or to a licensed county adoption agency at any time while the child is a dependent child of the juvenile court, if the department or agency is willing to accept the relinquishment.

(c) A dependent child may not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances listed in paragraphs (1) to (5), inclusive, and, in an Indian child custody proceeding, paragraph (6):

(1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the physical custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, the option of removing an offending parent or guardian from the home. The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain physical custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to

his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(6) In an Indian child custody proceeding, continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and that finding is supported by testimony of a "qualified expert witness" as described in Section 224.6.

(A) Stipulation by the parent, Indian custodian, or the Indian child's tribe, or failure to object, may waive the requirement of producing evidence of the likelihood of serious damage only if the court is satisfied that the party has been fully advised of the requirements of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily waived them.

(B) Failure to meet non-Indian family and child-rearing community standards, or the existence of other behavior or conditions that meet the removal standards of this section, will not support an order for placement in the absence of the finding in this paragraph.

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 49. Section 361.31 is added to the Welfare and Institutions Code, to read:

361.31. (a) In any case in which an Indian child is removed from the physical custody of his or her parents or Indian custodian pursuant to Section 361, the child's placement shall comply with this section.

(b) Any foster care or guardianship placement of an Indian child, or any emergency removal of a child who is known to be, or there is reason to know that the child is, an Indian child shall be in the least restrictive setting which most approximates a family situation and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to the child's home, taking into account any special needs of the child. Preference shall be given to the child's placement with one of the following, in descending priority order:

(1) A member of the child's extended family, as defined in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(2) A foster home licensed, approved, or specified by the child's tribe.

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(4) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In any adoptive placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

(1) A member of the child's extended family, as defined in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(2) Other members of the child's tribe.

(3) Another Indian family.

(d) Notwithstanding the placement preferences listed in subdivisions (b) and (c), if a different order of placement preference is established by the child's tribe, the court or agency effecting the placement shall follow the order of preference established by the tribe, so long as the placement is the least restrictive setting appropriate to the particular needs of the child as provided in subdivision (b).

(e) Where appropriate, the placement preference of the Indian child, when of sufficient age, or parent shall be considered. In applying the preferences, a consenting parent's request for anonymity shall also be given weight by the court or agency effecting the placement.

(f) The prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied in meeting the

placement preferences under this section. A determination of the applicable prevailing social and cultural standards may be confirmed by the Indian child's tribe or by the testimony or other documented support of a qualified expert witness, as defined in subdivision (c) of Section 224.6, who is knowledgeable regarding the social and cultural standards of the Indian child's tribe.

(g) Any person or court involved in the placement of an Indian child shall use the services of the Indian child's tribe, whenever available through the tribe, in seeking to secure placement within the order of placement preference established in this section and in the supervision of the placement.

(h) The court may determine that good cause exists not to follow placement preferences applicable under subdivision (b), (c), or (d) in accordance with subdivision (e).

(i) When no preferred placement under subdivision (b), (c), or (d) is available, active efforts shall be made to place the child with a family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

(j) The burden of establishing the existence of good cause not to follow placement preferences applicable under subdivision (b), (c), or (d) shall be on the party requesting that the preferences not be followed.

(k) A record of each foster care placement or adoptive placement of an Indian child shall be maintained in perpetuity by the State Department of Social Services. The record shall document the active efforts to comply with the applicable order of preference specified in this section.

SEC. 50. Section 361.7 is added to the Welfare and Institutions Code, to read:

361.7. (a) Notwithstanding Section 361.5, a party seeking an involuntary foster care placement of, or termination of parental rights over, an Indian child shall provide evidence to the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(b) What constitutes active efforts shall be assessed on a case-by-case basis. The active efforts shall be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts shall utilize the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.

(c) No foster care placement or guardianship may be ordered in the proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of a qualified expert witness, as defined in Section 224.6, that the continued custody of the child by

the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SEC. 51. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

(A) The continuing necessity for and appropriateness of the placement.

(B) The extent of the agency's compliance with the case plan in making reasonable efforts, or, in the case of an Indian child, active efforts as described in Section 361.7, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child's siblings who are important to the child, consistent with the child's best interests.

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child pursuant to Section 361.

(D) (i) Whether the child has other siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(I) The nature of the relationship between the child and his or her siblings.

(II) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(III) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(IV) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(V) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(VI) The continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002.

(ii) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but

are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(E) The extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(2) The court shall project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(b) Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

(d) A child may not be placed in an out-of-state group home, or remain in an out-of-state group home, unless the group home is in compliance with Section 7911.1 of the Family Code.

(e) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of 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. 52. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to children who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8714.7 of the Family Code is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) On making a finding under paragraph (3) of subdivision (c), identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

(3) Appoint a legal guardian for the child and order that letters of guardianship issue.

(4) Order that the child be placed in long-term foster care, subject to the periodic review of the juvenile court under Section 366.3.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) (1) If the court determines, based on the assessment provided as ordered under subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22, and any other relevant evidence, by a clear and convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted. A finding under subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, under subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or, under Section 366.21 or 366.22, that the court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights unless the court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:

(A) The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

(B) A child 12 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The child is living with a relative, foster parent, or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her relative, foster parent, or Indian custodian would be detrimental to the emotional well-being of the child. This subparagraph does not apply to any child who is living with a nonrelative and who is either (i) under six years of age or (ii) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together. For purposes of an Indian child, "relative" shall include an "extended family member" as defined in the Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(E) There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.

(F) The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

(i) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.

(ii) The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, or another planned permanent living arrangement for the child.

If the court finds that termination of parental rights would be detrimental to the child pursuant to subparagraph (A), (B), (C), (D), (E), or (F), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if:

(A) At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(B) In the case of an Indian child:

(i) At the hearing terminating parental rights, the court has found that active efforts were not made as required in Section 361.7.

(ii) The court does not make a determination at the hearing terminating parental rights, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Section 224.6, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older, to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1) or (3) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is the age of seven years or more.

(4) (A) If the court finds that adoption of the child or termination of parental rights is not in the best interest of the child, because one of the conditions in subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the child or order that the child remain in long-term foster care. Legal

guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. A child who is 10 years of age or older, shall be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential guardians. The agency may ask any other child to provide that information, as appropriate.

(B) If the child is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker or foster parents.

(C) The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the child with a stable and permanent environment, the court may order the care, custody, and control of the child transferred from the county welfare department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director regarding the suitability of the transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the child in a suitable licensed or exclusive-use home that has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the child and providing appropriate services to the child, including those services ordered by the court. Responsibility for the support of the child shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the child. Those children whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to

the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a child who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanent plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a child who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the child or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) In accordance with subdivision (c) of Section 317, if a child before the court is without counsel, the court shall appoint counsel unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the child and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for a period of time not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) (1) At all proceedings under this section, the court shall consider the wishes of the child and shall act in the best interests of the child.

(2) In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.

(3) (A) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exists:

(i) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(ii) The child is likely to be intimidated by a formal courtroom setting.

(iii) The child is afraid to testify in front of his or her parent or parents.

(B) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

(C) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.

(i) (1) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal the order.

(2) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan may petition the juvenile court to reinstate parental rights pursuant to the procedure prescribed by Section 388. The child may file the petition prior to the expiration of this three-year period if the State Department of Social Services or licensed adoption agency that is responsible for custody and supervision of the child as described in subdivision (j) and the child stipulate that the child is no longer likely to be adopted. A child over 12 years of age shall sign the petition in the absence of a showing of good cause as to why the child could not do so. If it appears that the best interests of the child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record,

or, if there is no attorney of record for the child, to the child, and the child's tribe, if applicable, by means prescribed by subdivision (c) of Section 297. The court shall order the child or the social worker or probation officer to give prior notice of the hearing to the child's former parent or parents whose parental rights were terminated in the manner prescribed by subdivision (f) of Section 294 where the recommendation is adoption. The juvenile court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. If the court reinstates parental rights over a child who is under 12 years of age and for whom the new permanent plan will not be reunification with a parent or legal guardian, the court shall specify the factual basis for its findings that it is in the best interest of the child to reinstate parental rights. This subdivision is intended to be retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(j) If the court, by order or judgment, declares the child free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the child referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, a petition for adoption may not be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the child and shall be entitled to the exclusive care and control of the child at all times until a petition for adoption is granted, except as specified in subdivision (n). With the consent of the agency, the court may appoint a guardian of the child, who shall serve until the child is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(*l*) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if the party is present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m) Except for subdivision (j), this section shall also apply to minors adjudged wards pursuant to Section 727.31.

(n) (1) Notwithstanding Section 8704 of the Family Code or any other provision of law, the court, at a hearing held pursuant to this section or anytime thereafter, may designate a current caretaker as a prospective

adoptive parent if the child has lived with the caretaker for at least six months, the caretaker currently expresses a commitment to adopt the child, and the caretaker has taken at least one step to facilitate the adoption process. In determining whether to make that designation, the court may take into consideration whether the caretaker is listed in the preliminary assessment prepared by the county department in accordance with subdivision (i) of Section 366.21 as an appropriate person to be considered as an adoptive parent for the child and the recommendation of the State Department of Social Services or licensed adoption agency.

(2) For purposes of this subdivision, steps to facilitate the adoption process include, but are not limited to, the following:

(A) Applying for an adoption homestudy.

(B) Cooperating with an adoption homestudy.

(C) Being designated by the court or the licensed adoption agency as the adoptive family.

(D) Requesting de facto parent status.

(E) Signing an adoptive placement agreement.

(F) Engaging in discussions regarding a postadoption contact agreement.

(G) Working to overcome any impediments that have been identified by the State Department of Social Services and the licensed adoption agency.

(H) Attending classes required of prospective adoptive parents.

(3) Prior to a change in placement and as soon as possible after a decision is made to remove a child from the home of a designated prospective adoptive parent, the agency shall notify the court, the designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of this notice, the child's attorney, and the child, if the child is 10 years of age or older, of the proposal in the manner described in Section 16010.6.

(A) Within five court days or seven calendar days, whichever is longer, of the date of notification, the child, the child's attorney, or the designated prospective adoptive parent may file a petition with the court objecting to the proposal to remove the child, or the court, upon its own motion, may set a hearing regarding the proposal. The court may, for good cause, extend the filing period. A caretaker who would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of the notice of proposed removal of the child may file, together with the petition under this subparagraph, a petition for an order designating the caretaker as a prospective adoptive parent for purposes of this subdivision.

(B) A hearing ordered pursuant to this paragraph shall be held as soon as possible and not later than five court days after the petition is filed with the court or the court sets a hearing upon its own motion, unless the court for good cause is unable to set the matter for hearing five court days after the petition is filed, in which case the court shall set the matter for hearing as soon as possible. At the hearing, the court shall determine whether the caretaker has met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1), and whether the proposed removal of the child from the home of the designated prospective adoptive parent is in the child's best interest, and the child may not be removed from the home of the designated prospective adoptive parent unless the court finds that removal is in the child's best interest. If the court determines that the caretaker did not meet the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the child, the petition objecting to the proposed removal filed by the caretaker shall be dismissed. If the caretaker was designated as a prospective adoptive parent prior to this hearing, the court shall inquire into any progress made by the caretaker towards the adoption of the child since the caretaker was designated as a prospective adoptive parent.

(C) A determination by the court that the caretaker is a designated prospective adoptive parent pursuant to paragraph (1) or subparagraph (B) does not make the caretaker a party to the dependency proceeding nor does it confer on the caretaker any standing to object to any other action of the department or licensed adoption agency, unless the caretaker has been declared a de facto parent by the court prior to the notice of removal served pursuant to paragraph (3).

(D) If a petition objecting to the proposal to remove the child is not filed, and the court, upon its own motion, does not set a hearing, the child may be removed from the home of the designated prospective adoptive parent without a hearing.

(4) Notwithstanding paragraph (3), if the State Department of Social Services or a licensed adoption agency determines that the child must be removed from the home of the caretaker who is or may be a designated prospective adoptive parent immediately, due to a risk of physical or emotional harm, the agency may remove the child from that home and is not required to provide notice prior to the removal. However, as soon as possible and not longer than two court days after the removal, the agency shall notify the court, the caretaker who is or may be a designated prospective adoptive parent, the child's attorney, and the child, if the child is 10 years of age or older, of the removal. Within five court days or seven calendar days, whichever is longer, of the date of notification of the removal, the child, the child's attorney, or the caretaker who is or

may be a designated prospective adoptive parent may petition for, or the court on its own motion may set, a noticed hearing pursuant to paragraph (3). The court may, for good cause, extend the filing period.

(5) Except as provided in subdivision (b) of Section 366.28, an order by the court issued after a hearing pursuant to this subdivision shall not be appealable.

(6) Nothing in this section shall preclude a county child protective services agency from fully investigating and responding to alleged abuse or neglect of a child pursuant to Section 11165.5 of the Penal Code.

(7) The Judicial Council shall prepare forms to facilitate the filing of the petitions described in this subdivision, which shall become effective on January 1, 2006.

(o) The implementation and operation of the amendments to paragraph (3) of subdivision (c) and subparagraph (A) of paragraph (4) of subdivision (c) 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. 53. Section 727.4 of the Welfare and Institutions Code is amended to read:

727.4. (a) (1) Notice of any hearing pursuant to Section 727, 727.2, or 727.3 shall be mailed by the probation officer to the minor, the minor's parent or guardian, any adult provider of care to the minor including, but not limited to, foster parents, relative caregivers, preadoptive parents, community care facility, or foster family agency, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date of the hearing. The notice shall contain a statement regarding the nature of the status review or permanency planning hearing and any change in the custody or status of the minor being recommended by the probation department. The notice shall also include a statement informing the foster parents, relative caregivers, or preadoptive parents that he or she may attend all hearings or may submit any information he or she deems relevant to the court in writing. The foster parents, relative caregiver, and preadoptive parents are entitled to notice and opportunity to be heard but need not be made parties to the proceedings. Proof of notice shall be filed with the court.

(2) If the court or probation officer knows or has reason to know that the minor is or may be an Indian child, any notice sent under this section shall comply with the requirements of Section 224.2.

(b) At least 10 calendar days prior to each status review and permanency planning hearing, after the hearing during which the court

orders that the care, custody and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the probation officer shall file a social study report with the court, pursuant to the requirements listed in Section 706.5.

(c) The probation department shall inform the minor, the minor's parent or guardian, and all counsel of record that a copy of the social study prepared for the hearing will be available 10 days prior to the hearing and may be obtained from the probation officer.

(d) As used in Article 15 (commencing with Section 625) to Article 18 (commencing with Section 725), inclusive:

(1) "Foster care" means residential care provided in any of the settings described in Section 11402.

(2) "At risk of entering foster care" means that conditions within a minor's family may necessitate his or her entry into foster care unless those conditions are resolved.

(3) "Preadoptive parent" means a licensed 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.

(4) "Date of entry into foster care" means the date that is 60 days after the date on which the minor was removed from his or her home, unless one of the exceptions below applies:

(A) If the minor is detained pending foster care placement, and remains detained for more than 60 days, then the date of entry into foster care means the date the court adjudges the minor a ward and orders the minor placed in foster care under the supervision of the probation officer.

(B) If, before the minor is placed in foster care, the minor is committed to a ranch, camp, school, or other institution pending placement, and remains in that facility for more than 60 days, then the "date of entry into foster care" is the date the minor is physically placed in foster care.

(C) If at the time the wardship petition was filed, the minor was a dependent of the juvenile court and in out-of-home placement, then the "date of entry into foster care" is the earlier of the date the juvenile court made a finding of abuse or neglect, or 60 days after the date on which the child was removed from his or her home.

(5) "Reasonable efforts" means:

(A) Efforts made to prevent or eliminate the need for removing the minor from the minor's home.

(B) Efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services.

(C) Efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

(D) In child custody proceedings involving an Indian child, "reasonable efforts" shall also include "active efforts" as defined in Section 361.7.

(6) "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," "grand," or the spouse of any of these persons even if the marriage was terminated by death or dissolution. "Relative" shall also include an "extended family member" as defined in the Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(7) "Hearing" means a noticed proceeding with findings and orders that are made on a case-by-case basis, heard by either of the following:

(A) A judicial officer, in a courtroom, recorded by a court reporter.

(B) An administrative panel, provided that the hearing is a status review hearing and that the administrative panel meets the following conditions:

(i) The administrative review shall be open to participation by the minor and parents or legal guardians and all those persons entitled to notice under subdivision (a).

(ii) The minor and his or her parents or legal guardians receive proper notice as required in subdivision (a).

(iii) The administrative review panel is composed of persons appointed by the presiding judge of the juvenile court, the membership of which shall include at least one person who is not responsible for the case management of, or delivery of services to, the minor or the parents who are the subjects of the review.

(iv) The findings of the administrative review panel shall be submitted to the juvenile court for the court's approval and shall become part of the official court record.

SEC. 54. Section 10553.1 of the Welfare and Institutions Code is amended to read:

10553.1. (a) Notwithstanding any other provision of law, the director may enter into an agreement, in accordance with Section 1919 of Title 25 of the United States Code, with any California Indian tribe or any out-of-state Indian tribe regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including, but not limited to, agreements that provide for orderly transfer of jurisdiction on a case-by-case basis, for exclusive tribal or state jurisdiction, or for concurrent jurisdiction between the state and tribes.

(b) (1) An agreement under subdivision (a) regarding the care and custody of Indian children shall provide for the delegation to the tribe or tribes of the responsibility that would otherwise be the responsibility

of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both.

(2) An agreement under subdivision (a) concerning the provision of child welfare services shall ensure that a tribe meets current service delivery standards provided for under Chapter 5 (commencing with Section 16500) of Part 4, and provides the local matching share of costs required by Section 10101.

(3) An agreement under subdivision (a) concerning assistance payments under the AFDC-FC program shall ensure that a tribe meets current foster care standards provided for under Article 5 (commencing with Section 11400) of Chapter 2 of Part 3, and provides the local matching share of costs required by Section 15200.

(c) Upon the implementation date of an agreement authorized by subdivision (b), the county that would otherwise be responsible for providing the child welfare services or AFDC-FC payments specified in the agreement as being provided by the tribe shall no longer be subject to that responsibility to children served under the agreement.

(d) Upon the effective date of an agreement authorized by subdivision (b), the tribe shall comply with fiscal reporting requirements specified by the department for federal and state reimbursement child welfare or AFDC-FC services.

(e) An Indian tribe that is a party to an agreement under subdivision (a), shall, in accordance with the agreement, be eligible to receive allocations of child welfare services funds pursuant to Section 10102.

(f) Implementation of an agreement under subdivision (a) may not be construed to impose liability upon, or to require indemnification by, the participating county or the State of California for any act or omission performed by an officer, agent, or employee of the participating tribe pursuant to this section.

SEC. 55. Section 16507.4 of the Welfare and Institutions Code is amended to read:

16507.4. (a) Notwithstanding any other provisions of this chapter, voluntary family reunification services shall be provided without fee to families who qualify, or would qualify if application had been made therefor, as recipients of public assistance under the Aid to Families with Dependent Children program. If the family is not qualified for aid, voluntary family reunification services may be utilized, provided that the county seeks reimbursement from the parent or guardian on a statewide sliding scale according to income as determined by the State Department of Social Services and approved by the Department of Finance.

(b) An out-of-home placement of a minor without adjudication by the juvenile court may occur only when all of the following conditions exist:

(1) There is a mutual decision between the child's parent or guardian and the county welfare department in accordance with regulations promulgated by the State Department of Social Services.

(2) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements which shall be used by all counties. The form shall indicate that foster care under the Aid to Families with Dependent Children program is available to those children.

(3) In the case of an Indian child, in accordance with Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the following criteria are met:

(A) The parent or Indian custodian's consent to the voluntary out-of-home placement is executed in writing at least 10 days after the child's birth and recorded before a judge.

(B) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(C) A parent of an Indian child may withdraw his or her consent for any reason at any time and the child shall be returned to the parent.

(c) In the case of a voluntary placement pending relinquishment, a county welfare department shall have the option of delegating to a licensed private adoption agency the responsibility for placement by the county welfare department. If such a delegation occurs, the voluntary placement agreement shall be signed by the county welfare department, the child's parent or guardian, and the licensed private adoption agency.

(d) The State Department of Social Services shall amend its plan pursuant to Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code in order to conform to mandates of Public Law 96-272 for federal financial participation in voluntary placements.

SEC. 56. 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. 57. (a) Section 42.5 of this bill incorporates amendments to Section 295 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1667. 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 295 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1667, in which case Section 42 of this bill shall not become operative.

(b) Section 46.5 of this bill incorporates amendments to Section 317 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 2480. 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 317 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2480, in which case Section 46 of this bill shall not become operative.

CHAPTER 839

An act to add Chapter 12 (commencing with Section 5852) to Division 5 of the Public Resources Code, and to amend Section 99234 of the Public Utilities Code, relating to parks and recreation.

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

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

SECTION 1. (a) The Legislature hereby finds all of the following:

(1) The Great California Delta region is a wondrous state and national treasure, with its natural resources and fertile soils for agriculture, its access to recreation and science research, and its rich history and beauty.

(2) The California Delta provides two-thirds of the state's drinking and irrigation water, that flows through the delta's over 1,000 miles of waterways, levees, and shorelines.

(3) The California Delta is of great ecological significance, with its two most prominent waterways, the Sacramento and the San Joaquin Rivers, carrying fresh water from the Sierra Nevada Range and the Central Valley to the San Francisco Bay.

(4) The California Delta is a key part of the Pacific Flyway, and its rich ecosystem serves as home to thousands of unique birds, fish, animals, and plants, and is enjoyed by outdoor enthusiasts, water-sport fans, hunters, fishermen, and naturalists.

(5) The California Delta is a complicated and fragile system that needs the appreciation and protection of future generations of Californians.

(6) The California Delta is characterized by its numerous scenic waterways, levee-top roadways, historic towns, idyllic marinas, eucalyptus tree windrows, and highly productive family farms.

(7) There are 22 public recreation areas in the Sacramento-San Joaquin Delta region, with fishing, park day use facilities, campgrounds, trails and boating access that support numerous recreational activities including boating, water skiing, jet skiing, windsurfing, sailing, fishing, relaxing, hiking and jogging, horseback riding, swimming, picnicking, and cycling.

(8) California is challenged by a growing obesity crisis and state and local leaders must address the need for more opportunities for exercise, movement, and recreation in public settings.

(9) The Delta Protection Commission surveys have found that there are unmet recreational needs in the delta region, including a trail for bicycling and hiking, in the Sacramento-San Joaquin Delta region.

(10) A bicycle and pedestrian trail would provide an important link between the people of California and one of our most precious natural resources.

(11) A bicycle and pedestrian trail connecting the delta region, with adjacent areas, would provide a great link between our fascinating delta communities and foster a connection between our rich histories and present challenges.

(b) The Legislature declares its support for the creation of a Great California Delta Trail, linking the San Francisco Bay Trail system and the planned Sacramento River trails in Yolo and Sacramento Counties to the present and future trailways around the delta, including, but not limited to, the delta's shorelines in Contra Costa, San Joaquin, Solano, Sacramento, and Yolo Counties.

SEC. 2. Chapter 12 (commencing with Section 5852) is added to Division 5 of the Public Resources Code, to read:

Chapter 12. The Great California Delta Trail System

5852. "Delta" means the Sacramento-San Joaquin Delta, as defined in Section 12220 of the Water Code minus the area contained in Alameda County.

5853. "Commission" means Delta Protection Commission as defined in Section 29721.

5854. (a) In accordance with the requirements of subdivision (c), the commission shall develop and adopt a plan and implementation program, including a finance and maintenance plan, for a continuous regional recreational corridor that will extend around the delta, including, but not limited to, the delta's shorelines in Contra Costa, Solano, San Joaquin, Sacramento, and Yolo Counties. This plan shall link the San

Francisco Bay Trail system to the planned Sacramento River trails in Yolo and Sacramento Counties. This plan shall include a specific route of a bicycling and hiking trail, the relationship of the route to existing and proposed park and recreational facilities and land and water trail systems, and links to existing and proposed public transportation and transit. The transportation and transit links may include, but are not limited to, roadside bus stops, transit facilities, and transportation facilities. The continuous regional recreational corridor planned and executed pursuant to this chapter shall be called the Great California Delta Trail. The continuous regional recreational corridor shall include, but not be limited to, bikeway systems, and hiking and bicycling trails.

(b) The Great California Delta Trail plan shall do all of the following:

(1) Provide that designated environmentally sensitive areas, including wildlife habitats and wetlands, shall not be adversely affected by the trail.

(2) Provide for appropriate buffer zones along those portions of the bikeway system adjacent to designated environmentally sensitive areas and areas with private uses, when appropriate.

(3) Provide that the land and funds used for any purposes under this chapter are not considered mitigation for wetlands losses.

(4) Provide alternative routes to avoid impingement on environmentally sensitive areas, traditional hunting and fishing areas, and areas with private uses, when appropriate.

(5) Provide that no motorized vehicles, except to the extent necessary for emergency services, including, but not limited to, medical and structural emergencies, and for handicap access, be allowed on the trail.

(c) The commission may develop and adopt the plan and the implementation program if it receives sufficient funds, from sources other than the General Fund, to finance the full costs of developing and adopting the plan. The commission shall submit the plan and the implementation program to the Legislature and each of the counties within the commission's service area not later than two years after the commission determines that sufficient funds will be available to complete the plan and implementation program.

(d) The commission shall administer the funds used in the planning of the trail.

5855. (a) The commission shall establish a technical advisory committee that shall review the trail's planning, implementation, and funding proposals. The committee shall include members and staff of appropriate regional government associations, local jurisdictions, and districts. Participation in the committee is voluntary and its members are not eligible for reimbursement from the state for costs incurred to participate. The committee may make recommendations, to the

commission, on the trail's planning, implementation, and funding. The executive director of the commission shall convene the meetings of the committee.

(b) A cooperative working relationship shall be established with state and federal agencies, and all other cities, counties, districts, including school districts, and regional government associations that are affected by the proposed trail.

(c) The commission shall establish a stakeholder advisory committee representing groups concerned with environmental and ecological protection of the delta, groups representing agricultural, private, and other business uses of the delta's land and water, and groups representing bicycling, walking, boating, horseback riding, and other relevant recreational activities. The stakeholder advisory committee shall advise the commission on the trail's impacts on and uses for committee member constituencies. Participation in the committee is voluntary and its members are not eligible for reimbursement from the state for costs incurred to participate. The committee may make recommendations, to the commission, on the trail's planning, implementation, and funding. The executive director of the commission shall convene the meetings of the stakeholder advisory committee.

(d) The meetings of the committees established in subdivisions (a) and (c) shall be subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 3. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles or for bicycle safety education programs shall be filed according to the rules and regulations adopted by the transportation planning agency.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction, or for bicycle safety education programs.

(c) The money may be allocated for the maintenance of bicycling trails that are closed to motorized traffic pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction.

(d) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(e) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited

to, new trails serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(f) Notwithstanding any other provision of this section, a planning agency established in Title 7.1 (commencing with Section 66500) of the Government Code may allocate the money to the Association of Bay Area Governments for activities required by Chapter 11 (commencing with Section 5850) of Division 5 of the Public Resources Code.

(g) Notwithstanding any other provision of this section, the transportation planning agencies that allocate funds, pursuant to this section, to the cities and counties with jurisdiction or a sphere of influence within the delta, as defined in Section 5852 of the Public Resources Code, may allocate the money to the Delta Protection Commission for activities required by Chapter 12 (commencing with Section 5852) of Division 5 of the Public Resources Code.

(h) Within 30 days after receiving a request for a review from any city or county, the transportation planning agency shall review its allocations made pursuant to Section 99233.3.

(i) In addition to the purposes authorized in this section, a portion of the amount available to a city or county pursuant to Section 99233.3 may be allocated to develop a comprehensive bicycle and pedestrian facilities plan, with an emphasis on bicycle projects intended to accommodate bicycle commuters rather than recreational bicycle users. An allocation under this subdivision may not be made more than once every five years.

(j) Up to 20 percent of the amount available each year to a city or county pursuant to Section 99233.3 may be allocated to restripe class II bicycle lanes.

CHAPTER 840

An act to amend Sections 10600, 10601, and 60900 of, and to add Sections 10601.5 and 44230.5 to, the Education Code, relating to teachers.

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

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

SECTION 1. Section 10600 of the Education Code is amended to read:

10600. (a) It is the intent of the Legislature in enacting this chapter to make complete, current, and reliable information relating to education available to the Legislature and to all public educational agencies in California at maximum efficiency and economy through statewide compatibility in the development and application of information systems and electronic data processing techniques insofar as they relate to data required in reports to the department.

(b) It is the further intent of the Legislature to recognize the importance, and enhance the stature, of the education profession throughout the state.

(c) The Legislature finds and declares all of the following:

(1) According to recent studies, there is a shortage of qualified teachers, particularly in the areas of special education, English language acquisition and development, math, and science, throughout California.

(2) In order for California to remain competitive in the global economy, the Legislature recognizes the necessity of continuing to support the recruitment of individuals to the teaching profession and effective teacher preparation and professional development programs. The Legislature also recognizes the importance of quality instruction to the academic achievement of pupils and of providing each pupil in the public schools with instruction by a highly qualified teacher.

(3) State and local policymakers, local educational agencies, teachers, parents, and pupils all need reliable information regarding participation in the teacher workforce, teacher movement between schools and school districts, the departure of teachers from the workforce before retirement, the appropriateness of teacher assignments, and the effectiveness of teacher credentialing, preparation, induction, recruitment, and support, and would benefit from the availability of more extensive information regarding the teaching profession.

(4) Data regarding the teacher workforce is currently collected and maintained by numerous state and local educational agencies. In order for the Legislature to fulfill its intent in enacting this chapter, it is necessary to integrate the data collected by those existing data systems to provide an understanding of the teacher workforce in the state and the effectiveness of teacher preparation programs. For purposes of integrating data regarding the teacher workforce in the state, Item 6110-001-0890 of Section 2.00 of the Budget Act of 2005 (Chapter 38 of the Statutes of 2005) appropriated funds for the department to contract for a teacher data system feasibility study to determine the feasibility of converting existing data systems into an integrated, comprehensive, longitudinally linked teacher information system that can yield high-quality program evaluations.

(d) It is the intent of the Legislature that the vital goals described in this section be accomplished through the establishment of a comprehensive state education data information system in the department that includes information regarding the teacher workforce.

SEC. 2. Section 10601 of the Education Code is amended to read:

10601. (a) There has been developed by the department the California Education Information System, hereinafter in this chapter called "the system." The function of the system is to establish, conduct, and by continuous concern keep up to date a basic, integrated, statewide information system for education.

(b) The system includes all of the following:

(1) The California Longitudinal Pupil Achievement Data System pursuant to Chapter 10 (commencing with Section 60900) of Part 33, which maintains pupil data regarding demographic, program participation, enrollment, and statewide assessments, in addition to data contained in the California Basic Educational Data System, including certificated staff information collected through the Professional Assignment Information Form prepared by the department.

(2) The California Longitudinal Teacher Integrated Data Education System developed pursuant to Section 10601.5, which enables analysis of workforce trends, evaluation of teacher preparation programs, and the monitoring of teacher assignments. The California Longitudinal Teacher Integrated Data Education System shall maintain data regarding the certificated workforce that is not maintained in the California Longitudinal Pupil Achievement Data System and consolidate data that is collected by state agencies and local educational agencies.

(c) Data elements and codes included in the system shall be maintained in compliance with all of the following:

(1) Chapter 6.5 (commencing with Section 49060) of Part 27 and any regulations adopted pursuant thereto.

(2) Section 49602.

(3) Section 56347.

(4) 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).

(5) The federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.) and any federal regulations adopted pursuant thereto.

(d) The department shall adopt regulations to implement this section.

SEC. 3. Section 10601.5 is added to the Education Code, to read:

10601.5. (a) The department, in collaboration with the Commission on Teacher Credentialing, shall contract for the development of a teacher data system to be known as the California Longitudinal Teacher Integrated Data Education System that is based on the results of the

teacher data system feasibility study conducted pursuant to Item 6110-001-0890 of Section 2.00 of the Budget Act of 2005 (Chapter 38 of the Statutes of 2005). The purpose of the system is to streamline processes, improve the efficiency of data collection by the department, the Commission on Teacher Credentialing, and the Employment Development Department, and improve the quality of data collected from local educational agencies and teacher preparation programs. The system shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(b) The system shall serve as the central state repository of information regarding the teacher workforce in the state for purposes of developing and reviewing state policy, identifying workforce trends, and identifying future needs regarding the teaching workforce. It shall also serve to provide high-quality program evaluations, including evaluation of the effectiveness of teacher preparation, induction, and to help improve professional development programs. Additionally, it shall promote the efficient monitoring of teacher assignments as required by state and federal law.

(c) Data in the system may not be used, either solely or in conjunction with data from the California Longitudinal Pupil Achievement Data System, for purposes of pay, promotion, sanction, or personnel evaluation of an individual teacher or groups of teachers, or of any other employment decisions related to individual teachers. The system may not include the names, social security numbers, home addresses, telephone numbers, or e-mail addresses of individual teachers.

(d) The system shall be used to accomplish all of the following goals:

(1) Provide a means to evaluate all of the following:

(A) The effectiveness of teacher preparation programs, including, but not limited to, traditional fifth-year programs, university internship programs, and district-sponsored internship programs.

(B) Teacher workforce issues, including mobility, retention, and attrition.

(2) Streamline and improve the effectiveness and timeliness of assignment monitoring as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and by state law.

(3) Enable local educational agencies to monitor teacher assignments on demand.

(e) For purposes of implementing this chapter, including the legislative intent expressed in subdivision (b) of Section 10600, the system shall include all of the following information:

(1) Age profiles of teachers in the workforce.

(2) Projections on the number of retirees in the education system over the next 10 years throughout the state.

(3) Identification of subject matter fields that have the severest shortage of teachers.

(4) Geographic distribution of teachers by credential type.

(5) Present patterns of in-service education for teachers.

(f) The Commission on Teacher Credentialing and accredited teacher preparation programs shall participate in the system by providing available data regarding enrollment in credential programs, credentials issued in each specialization, and certificated persons in each specialty who are not employed in education, and by collaborating with the department in the design and preparation of periodic reports of teacher supply and demand in each specialty and in each geographic region of the state.

(g) The system shall do all of the following:

(1) Utilize and maximize use of existing teacher databases.

(2) Maintain longitudinally-linked data without including the names of teachers.

(3) Comply with all state and federal confidentiality and privacy laws.

(h) The Superintendent shall convene a working group to provide advice and guidance on the development and implementation of the system. The group shall include, but is not limited to, representatives from the Commission on Teacher Credentialing, the Department of Finance, the Secretary for Education, the Legislative Analyst's Office, the Employment Development Department, and representatives of local educational agencies, postsecondary educational institutions, researchers, teachers, administrators, and parents.

(i) The operation of the system is contingent upon the appropriation of funds for purposes of this section in the annual Budget Act or other legislation.

SEC. 4. Section 44230.5 is added to the Education Code, to read:

44230.5. The commission shall establish a nonpersonally identifiable teacher identification number for each teacher to whom it issues a credential, certificate, permit, or other document authorizing that individual to teach in the public schools.

SEC. 5. Section 60900 of the Education Code is amended to read:

60900. (a) The department shall contract for the development of proposals which will provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to Chapter 5 (commencing with Section 60600), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850). The longitudinal data shall be known as the California Longitudinal Pupil Achievement Data System.

(b) The proposals developed pursuant to subdivision (a) shall evaluate and determine whether it would be most effective, from both a fiscal

and a technological perspective, for the state to own the system. The proposals shall additionally evaluate and determine the most effective means of housing the California Longitudinal Pupil Achievement Data System.

(c) The California Longitudinal Pupil Achievement Data System shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(d) The system or systems developed pursuant to this section shall be used to accomplish all of the following goals:

(1) To provide school districts and the department access to data necessary to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) To provide a better means of evaluating educational progress and investments over time.

(3) To provide local educational agencies information that can be used to improve pupil achievement.

(4) To provide an efficient, flexible, and secure means of maintaining longitudinal statewide pupil level data.

(e) In order to comply with federal law as delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall retain individual pupil records for each test taker, including all of the following:

(1) All demographic data collected from the STAR test, high school exit examination, and English language development test.

(2) Pupil achievement data from assessments administered pursuant to the STAR, high school exit examination, and English language development testing programs. To the extent feasible, data should include subscore data within each content area.

(3) A unique pupil identification number to be identical to the pupil identifier developed pursuant to the California School Information Services, which shall be retained by each local educational agency and used to ensure the accuracy of information on the header sheets of the STAR tests, high school exit examination, and the English language development test.

(4) All data necessary to compile reports required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), including, but not limited to, dropout and graduation rates.

(5) Other data elements deemed necessary by the Superintendent of Public Instruction, with approval of the state board, to comply with the federal reporting requirements delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), after review and comment by the advisory board convened pursuant to subdivision (h).

(f) The California Longitudinal Pupil Achievement Data System shall have all of the following characteristics:

(1) The ability to sort by demographic element collected from the STAR tests, high school exit examination, and English language development test.

(2) The capability to be expanded to include pupil achievement data from multiple years.

(3) The capability to monitor pupil achievement on the STAR tests, high school exit examination, and English language development test from year to year and school to school.

(4) The capacity to provide data to the state and local educational agencies upon their request.

(g) Data elements and codes included in the system shall comply with Sections 49061 to 49079, inclusive, and Sections 49602 and 56347, with Sections 430 to 438, inclusive, of Title 5 of the California Code of Regulations, with 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 with the federal Family Education Rights and Privacy Act statute (20 U.S.C. Secs. 1232g and 1232h) and related federal regulations.

(h) The department shall convene an advisory board consisting of representatives from the state board, the Secretary for Education, the Department of Finance, the State Privacy Ombudsman, the Legislative Analyst's Office, representatives of parent groups, school districts, and local educational agencies, and education researchers to establish privacy and access protocols, provide general guidance, and make recommendations relative to data elements. The department is encouraged to seek representation broadly reflective of the general public of California.

(i) Subject to funding being provided in the annual Budget Act, the department shall contract with a consultant for independent project oversight. The Director of Finance shall review the request for proposals for the contract. The consultant hired to conduct the independent project oversight shall twice annually submit a written report to the Superintendent of Public Instruction, the state board, the advisory board, the Director of Finance, the Legislative Analyst, and the appropriate policy and fiscal committees of the Legislature. The report shall include an evaluation of the extent to which the California Longitudinal Pupil Achievement Data System is meeting the goals described in subdivision (b) and recommendations to improve the data system in ensuring the privacy of individual pupil information and providing the data needed by the state and school districts.

(j) This section shall be implemented using federal funds received pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), which are appropriated for purposes of this section in Item 6110-113-0890 of Section 2.00 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002). The release of these funds is contingent on approval of an expenditure plan by the Department of Finance.

(k) For purposes of this chapter, a local educational agency shall include a county office of education, a school district, or charter school.

CHAPTER 841

An act to add and repeal Section 76000.5 of the Government Code, and to amend Section 1797.98a of the Health and Safety Code, relating to county penalties.

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

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

SECTION 1. Section 76000.5 is added to the Government Code, to read:

76000.5. (a) For purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, in addition to the penalties set forth in Section 76000, the county board of supervisors may elect to levy an additional penalty of two dollars ($2) for every ten dollars ($10) or fraction thereof, 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 violations of Division 9 (commencing with Section 23000) of the Business and Professions Code relating to the control of alcoholic beverages, and 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.

(b) Funds shall be collected pursuant to subdivision (a) only if the county board of supervisors provides that the increased penalties do not offset or reduce the funding of other programs from other sources, but

that these additional revenues result in increased funding to those programs.

(c) Money collected pursuant to subdivision (a) shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(d) Funds collected pursuant to this section shall be deposited into the Maddy Emergency Medical Services (EMS) Fund established pursuant to Section 1797.98a of the Health and Safety Code.

(e) 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 chaptered before January 1, 2009, deletes or extends that date.

SEC. 2. Section 1797.98a of the Health and Safety Code is amended to read:

1797.98a. (a) The fund provided for in this chapter shall be known as the Maddy Emergency Medical Services (EMS) Fund.

(b) (1) Each county may establish an emergency medical services fund, upon the adoption of a resolution by the board of supervisors. The moneys in the fund shall be available for the reimbursements required by this chapter. The fund shall be administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its emergency medical services fund administered by the state.

(2) Costs of administering the fund shall be reimbursed by the fund, based on the actual administrative costs, not to exceed 10 percent of the amount of the fund.

(3) All interest earned on moneys in the fund shall be deposited in the fund for disbursement as specified in this section.

(4) Each administering agency may maintain a reserve of up to 15 percent of the amount in the portions of the fund reimbursable to physicians and surgeons, pursuant to subparagraph (A) of, and to hospitals, pursuant to subparagraph (B) of, paragraph (5). Each administering agency may maintain a reserve of any amount in the portion of the fund that is distributed for other emergency medical services purposes as determined by each county, pursuant to subparagraph (C) of paragraph (5).

(5) The amount in the fund, reduced by the amount for administration and the reserve, shall be utilized to reimburse physicians and surgeons and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county according to the following schedule:

(A) Fifty-eight percent of the balance of the fund shall be distributed to physicians and surgeons for emergency services provided by all physicians and surgeons, except those physicians and surgeons employed

by county hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized.

(B) Twenty-five percent of the fund shall be distributed only to hospitals providing disproportionate trauma and emergency medical care services.

(C) Seventeen percent of the fund shall be distributed for other emergency medical services purposes as determined by each county, including, but not limited to, the funding of regional poison control centers. Funding may be used for purchasing equipment and for capital projects only to the extent that these expenditures support the provision of emergency services and are consistent with the intent of this chapter.

(c) The source of the moneys in the fund shall be the penalty assessment made for this purpose, as provided in Section 76000 of the Government Code.

(d) Any physician and surgeon may be reimbursed for up to 50 percent of the amount claimed pursuant to subdivision (a) of Section 1797.98c for the initial cycle of reimbursements made by the administering agency in a given year, pursuant to Section 1797.98e. All funds remaining at the end of the fiscal year in excess of any reserve held and rolled over to the next year pursuant to paragraph (4) of subdivision (b) shall be distributed proportionally, based on the dollar amount of claims submitted and paid to all physicians and surgeons who submitted qualifying claims during that year.

(e) Of the money deposited into the fund pursuant to Section 76000.5 of the Government Code, 15 percent shall be utilized to provide funding for all pediatric trauma centers throughout the county, both publicly and privately owned and operated. The expenditure of money shall be limited to reimbursement to physicians and surgeons, and to hospitals for patients who do not make payment for emergency care services in hospitals up to the point of stabilization, or to hospitals for expanding the services provided to pediatric trauma patients at trauma centers and other hospitals providing care to pediatric trauma patients, or at pediatric trauma centers, including the purchase of equipment. Local emergency medical services (EMS) agencies may conduct a needs assessment of pediatric trauma services in the county to allocate these expenditures. Counties that do not maintain a pediatric trauma center shall utilize the money deposited into the fund pursuant to Section 76000.5 of the Government Code to improve access to, and coordination of, pediatric trauma and emergency services in the county, with preference for funding given to hospitals that specialize in services to children, and physicians and surgeons who provide emergency care for children. Funds spent for the purposes of this section, shall be known as Richie's Fund. This subdivision shall remain in effect only until January 1, 2009, and shall have no force or

effect on or after that date, unless a later enacted statute, that is chaptered before January 1, 2009, deletes or extends that date.

(f) Costs of administering money deposited into the fund pursuant to Section 76000.5 of the Government Code shall be reimbursed from the money collected, not to exceed 10 percent. This subdivision shall remain in effect only until January 1, 2009, and shall have no force or effect on or after that date, unless a later enacted statute, that is chaptered before January 1, 2009, deletes or extends that date.

CHAPTER 842

An act to add and repeal Section 1946.1 of the Civil Code, relating to tenancy.

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

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

SECTION 1. Section 1946.1 is added to the Civil Code, to read:

1946.1. (a) Notwithstanding Section 1946, a hiring of residential real property for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the parties gives written notice to the other of his or her intention to terminate the tenancy, as provided in this section.

(b) An owner of a residential dwelling giving notice pursuant to this section shall give notice at least 60 days prior to the proposed date of termination. A tenant giving notice pursuant to this section shall give notice for a period at least as long as the term of the periodic tenancy prior to the proposed date of termination.

(c) Notwithstanding subdivision (b), an owner of a residential dwelling giving notice pursuant to this section shall give notice at least 30 days prior to the proposed date of termination if any tenant or resident has resided in the dwelling for less than one year.

(d) Notwithstanding subdivision (b), an owner of a residential dwelling giving notice pursuant to this section shall give notice at least 30 days prior to the proposed date of termination if all of the following apply:

(1) The dwelling or unit is alienable separate from the title to any other dwelling unit.

(2) The owner has contracted to sell the dwelling or unit to a bona fide purchaser for value, and has established an escrow with a licensed escrow agent, as defined in Sections 17004 and 17200 of the Financial

Code, or a licensed real estate broker, as defined in Section 10131 of the Business and Professions Code.

(3) The purchaser is a natural person or persons.

(4) The notice is given no more than 120 days after the escrow has been established.

(5) Notice was not previously given to the tenant pursuant to this section.

(6) The purchaser in good faith intends to reside in the property for at least one full year after the termination of the tenancy.

(e) After an owner has given notice of his or her intention to terminate the tenancy pursuant to this section, a tenant may also give notice of his or her intention to terminate the tenancy pursuant to this section, provided that the tenant's notice is for a period at least as long as the term of the periodic tenancy and the proposed date of termination occurs before the owner's proposed date of termination.

(f) The notices required by this section shall be given in the manner prescribed in Section 1162 of the Code of Civil Procedure or by sending a copy by certified or registered mail.

(g) This section may not be construed to affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

(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 843

An act to amend Sections 2082, 2083, 2177, 2221, and 2442 of, and to add Section 2015.5 to, the Business and Professions Code, relating to physicians and surgeons.

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

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

SECTION 1. Section 2015.5 is added to the Business and Professions Code, to read:

2015.5. The board may establish advisory committees consisting of persons who have a physician's and surgeon's certificate issued by the board that is in good standing and members of the public with interest

or knowledge of the subject matter assigned to the committee. Members of an advisory committee need not be members of the board.

SEC. 2. Section 2082 of the Business and Professions Code is amended to read:

2082. Each application shall include the following:

(a) A diploma issued by an approved medical school. The requirements of the school shall have been at the time of granting the diploma in no degree less than those required under this chapter or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the Division of Licensing of having possessed the same.

(b) An official transcript or other official evidence satisfactory to the division showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

(c) Other information concerning the professional instruction and preliminary education of the applicant as the division may require.

(d) An affidavit showing to the satisfaction of the division that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

(e) Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221.

SEC. 3. Section 2083 of the Business and Professions Code is amended to read:

2083. (a) Except as provided in subdivision (b), each application for a certificate shall be accompanied by the fee required by this chapter and shall be filed with the Division of Licensing.

(b) The license fee shall be waived for a physician and surgeon residing in California who certifies to the Medical Board of California that the issuance of the license or the renewal of the license is for the sole purpose of providing voluntary, unpaid service.

SEC. 4. Section 2177 of the Business and Professions Code is amended to read:

2177. (a) A passing score is required for an entire examination or for each part of an examination, as established by resolution of the Division of Licensing.

(b) Applicants may elect to take the written examinations conducted or accepted by the division in separate parts.

(c) An applicant shall have obtained a passing score on Part III of the United States Medical Licensing Examination within not more than four attempts in order to be eligible for a physician's and surgeon's certificate.

SEC. 5. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The Division of Licensing may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the division in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

(b) The Division of Licensing may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the Division of Medical Quality in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code, and the review procedures set forth in Section 2335.

(d) The Division of Licensing shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of

the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(e) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the division may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

SEC. 6. Section 2442 of the Business and Professions Code is amended to read:

2442. The renewal fee shall be waived for a physician and surgeon residing in California who certifies to the Medical Board of California that license renewal is for the sole purpose of providing voluntary, unpaid service.

CHAPTER 844

An act to amend Section 63905 of the Food and Agricultural Code, relating to agricultural and seafood industries.

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

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

SECTION 1. Section 63905 of the Food and Agricultural Code is amended to read:

63905. (a) Any commission or council may petition the secretary to adopt and administer any activity authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21) relating to the commodity that is covered by any commission or council. Adoption and administration of the activity by any commission or council shall be in accordance with the act.

(b) Any commission or council may petition the secretary to administer any activity that the commission or council is authorized to engage in, and that is authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21), relating to the commodity that is covered by any commission or council. If the secretary accepts the petition, the commission or council shall reimburse the secretary for his or her actual cost for administering the activity. The secretary may waive referendum under the act if, following a hearing, the secretary determines that there

is no substantial question of opposition to doing so among affected assessment payers. Administration of the activity by the secretary shall be in accordance with the act.

(c) As determined by the secretary, the governing body of the commission or council may serve as the advisory board with respect to any activity recommended and approved pursuant to this section.

(d) As used in this section, "substantial question of opposition" means opposition to the substance of the petition among currently affected assessment payers, and is not intended to mean a particular number of assessment payers.

CHAPTER 845

An act to add and repeal Chapter 5.1 (commencing with Section 42250) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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) On a global level, the production of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil, and the deaths of thousands of marine animals through ingestion and entanglement.

(2) Each year, an estimated 500 billion to 1 trillion plastic bags are used worldwide, which is over one million bags per minute, and of which billions of bags end up as litter each year.

(3) Most plastic carryout bags do not biodegrade which means that the bags break down into smaller and smaller toxic bits that contaminate soil and waterways and enter into the food web when animals accidentally ingest those materials.

(b) It is the intent of the Legislature, in enacting Chapter 5.1 (commencing with Section 42250) Part 3 of Division 30 of the Public Resources Code, to encourage the use of reusable bags by consumers and retailers and to reduce the consumption of single-use bags.

SEC. 2. Chapter 5.1 (commencing with Section 42250) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 5.1. At-Store Recycling Program

42250. For purposes of this chapter, the following definitions shall apply:

(a) "Manufacturer" means the producer of a plastic carryout bag sold to a store.

(b) "Operator" means a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner of the store.

(c) "Plastic carryout bag" means a plastic carryout bag provided by a store to a customer at the point of sale.

(d) "Reusable bag" means either of the following:

(1) A bag made of cloth or other machine washable fabric that has handles.

(2) A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse.

(e) "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and that meets either of the following requirements:

(1) Meet the definition of a "supermarket" as found in Section 14526.5.

(2) Has over 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

42251. (a) The operator of a store shall establish an at-store recycling program pursuant to this chapter that provides an opportunity for a customer of the store to return to the store clean plastic carryout bags.

(b) A retail establishment that does not meet the definition of a store, as specified in Section 42250, and that provides plastic carryout bags to customers at the point of sale may also adopt an at-store recycling program, as specified in this chapter.

42252. An at-store recycling program provided by the operator of a store shall include all of the following:

(a) A plastic carryout bag provided by the store shall have printed or displayed on the bag, in a manner visible to a consumer, the words "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING."

(b) A plastic carryout bag collection bin shall be placed at each store and shall be visible, easily accessible to the consumer, and clearly marked

that the collection bin is available for the purpose of collecting and recycling plastic carryout bags.

(c) All plastic bags collected by the store shall be collected, transported, and recycled in a manner that does not conflict with the local jurisdiction's source reduction and recycling element, pursuant to Chapter 2 (commencing with Section 41000) and Chapter 3 (commencing with Section 41300) of Part 2.

(d) The store shall maintain records describing the collection, transport, and recycling of plastic bags collected for a minimum of three years and shall make the records available to the board or the local jurisdiction, upon request, to demonstrate compliance with this chapter.

(e) The operator of the store shall make reusable bags available to customers within the store, which may be purchased and used in lieu of using a plastic carryout bag or paper bag. This subdivision is not applicable to a retail establishment specified pursuant to subdivision (b) of Section 42251.

42253. The manufacturer of a plastic carryout bag shall develop educational materials to encourage the reducing, reusing, and recycling plastic bags and shall make those materials available to stores required to comply with this chapter.

42254. (a) The Legislature finds and declares that all of these are matters of statewide interest and concern:

(1) Requiring a store to collect, transport, or recycle plastic carryout bags.

(2) Imposing a plastic carryout bag fee upon a store.

(3) Requiring a store to conduct auditing or reporting with regard to plastic carryout bags.

(b) Unless expressly authorized by this chapter, a city, county, or other public agency shall not adopt, implement, or enforce an ordinance, resolution, regulation, or rule to do any of the following:

(1) Require a store that is in compliance with this chapter to collect, transport, or recycle plastic carryout bags.

(2) Impose a plastic carryout bag fee upon a store that is in compliance with this chapter.

(3) Require auditing or reporting requirements that are in addition to what is required by subdivision (d) of Section 42252, upon a store that is in compliance with this chapter.

(c) This section does not prohibit the adoption, implementation, or enforcement of any local ordinance, resolution, regulation, or rule governing curbside or drop off recycling programs operated by, or pursuant to a contract with, a city, county, or other public agency, including any action relating to fees for these programs.

(d) This section does not affect any contract, franchise, permit, license, or other arrangement regarding the collection or recycling of solid waste or household hazardous waste.

42255. (a) A city, county, or the state may impose civil liability in the amount of five hundred dollars ($500) for the first violation of this chapter, one thousand dollars ($1,000) for the second violation, and two thousand dollars ($2,000) for the third and subsequent violation.

(b) Any civil penalties collected pursuant to subdivision (a) shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The penalties collected pursuant to this section by the Attorney General may be expended by the Attorney General, upon appropriation by the Legislature, to enforce this chapter.

42256. This chapter shall become operative on July 1, 2007.

42257. 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.

CHAPTER 846

An act to amend Sections 21354.3, 31522.3, and 31672 of, to add Sections 31680.9 and 70046.2 to, and to repeal and add Article 8.6 (commencing with Section 31694) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. 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
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

Age at Retirement	Fraction
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.

(e) (1) Notwithstanding subdivision (d) and for purposes of this subdivision, "Riverside County contracting agency" means any of the following:

(A) County of Riverside.

(B) County of Riverside Regional Park and Open-Space District.

(C) County of Riverside Waste Resources Management District.

(D) County of Riverside Flood Control and Water Conservation District.

(2) This section shall apply to a former employee of a Riverside County contracting agency if that former employee is currently employed by another Riverside County contracting agency. This section shall not apply to a Riverside County contracting agency nor the current or former employees of that Riverside County contracting agency until the Riverside County contracting agency elects to make all local miscellaneous members subject to this section by amendment to the

contract of that Riverside County contracting agency, made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract. The provisions of this section shall apply with respect to a local miscellaneous member on the effective date of the amendment to the Riverside County contracting agency's contract electing to be subject to this section.

SEC. 2. Section 31522.3 of the Government Code is amended to read:

31522.3. (a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint assistant administrators and chief investment officers as provided for in this section. The positions of the assistant administrators and chief investment officers designated by the retirement board shall not be subject to county charter, civil service, or merit system rules. The persons so appointed shall be county employees and shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The assistant administrators and chief investment officers so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the assistant administrators and chief investment officers by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator or a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 1996.

(c) This section shall only apply to a county of the third class, a county of the eighth class, a county of the 14th class, a county of the 15th class, or a county of the 18th class, as provided by Sections 28020, 28024, 28029, 28035, 28036, and 28039.

SEC. 3. Section 31672 of the Government Code is amended to read:

31672. A member who has reached 70 years of age or a member who has completed 10 years of service and who has reached 55 years of age, or a member who has completed 30 years of service regardless of age, may be retired upon filing with the board a written application, setting forth the date upon which he or she desires his or her retirement to become effective not earlier than the date the application is filed with the board and not more than 60 days after the date of filing the application. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in a county by resolution of the board of supervisors.

SEC. 4. Section 31680.9 is added to the Government Code, to read:

31680.9. (a) The application of Section 31680.8 shall be limited by this section. Section 31680.8 shall not apply to either of the following:

(1) A safety member who was required to retire as described in Section 31663.2.

(2) A member who retired as a safety member described in Section 31470.4 or 31470.6.

(b) This section shall apply only to a county of the first class as described in Section 28020.

SEC. 5. Article 8.6 (commencing with Section 31694) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code is repealed.

SEC. 6. Article 8.6 (commencing with Section 31694) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 8.6. Post-Employment Benefits

31694. (a) The board of supervisors of a county or the governing body of a district or other public entity may, by ordinance or resolution and with the agreement of the board of retirement, provide for the contribution of funds by the county, a district, or other public entity into a Post-Employment Benefits Trust Account. The retirement system shall establish the Post-Employment Benefits Trust Account as a part of the retirement fund. The Post-Employment Benefits Trust Account shall be established for the sole purpose of funding the benefits provided under a post-employment group health, life, or other welfare benefits plan or plans established and maintained by the county or district, which plan or plans may provide for self-insured coverage or the payment of all or a portion of the premiums on one or more insurance contracts or health care service plan contracts for retired employees of the participating county, district, or other public entity, and their qualified spouses, dependents and beneficiaries.

(b) Contributions to the Post-Employment Benefits Trust Account may include the proceeds of debt issued by the county, a district, or other public entity solely for the purpose of funding post-employment health, life, or other welfare benefits.

(c) The post-employment benefits provided with the funds contributed to the Post-Employment Benefits Trust Account are in addition to any other benefits provided under this chapter.

(d) (1) Except as described in subdivision (b) of Section 31694.1, the assets of the retirement fund may not be used, directly or indirectly, to pay the cost of any benefits provided through the Post-Employment Benefits Trust Account.

(2) Except as described in subdivision (c) of Section 31694.1, funds in the Post-Employment Benefits Trust Account may not be used, directly or indirectly, to pay the cost of any other benefits provided under this chapter.

31694.1. (a) The retirement system shall separately account for, on the books of the retirement system, the funds contributed to the Post-Employment Benefits Trust Account by each participating employer and the earnings and expenses related to the investment and administration of those funds.

(b) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole, exclusive, and plenary authority and fiduciary responsibility over the investment of the Post-Employment Benefits Trust Account, consistent with Sections 31594 and 31595, and as provided for in Section 17 of Article XVI of the California Constitution. The board of retirement or board of investments may invest funds in the Post-Employment Benefits Trust Account with those of the retirement system. The investment earnings and investment expenses attributable to the investment activity of the Post-Employment Benefits Trust Account shall be accounted for separately from the investment earnings and expenses of the retirement fund.

(c) The funds in and investment earnings of the Post-Employment Benefits Trust Account shall be used to pay the reasonable costs related to investment expenses and administration of the Post-Employment Benefits Trust Account. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(d) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, may establish rules and procedures governing the investments and administration of the Post-Employment Benefits Trust Account. The board of retirement or the board of investments shall determine the rate of interest to credit the funds in the Post-Employment Benefits Trust Account.

(e) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized to take any and all actions necessary to establish and administer the Post-Employment Benefits Trust Account in compliance with applicable federal tax laws or other legal requirements.

(f) The board of retirement, or the board of retirement acting jointly with a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, and a participating employer in the Post-Employment Benefits Trust Account shall establish,

by written agreement, the respective roles and responsibilities of the retirement system and the participating employer with respect to the administration and investment of the Post-Employment Benefits Trust Account. That agreement shall include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting considerations, and any applicable investment parameters. The board may, in its discretion, authorize an employer to transfer assets into or out of the prefunding plan, however any transfer of assets shall comply with the terms of the contract between the employer and the board, satisfy requirements under applicable rules of the Governmental Accounting Standards Board, and satisfy the requirements of Section 115 of the Internal Revenue Code. Once the investment parameters are established, the board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole control over the investment activity of the Post-Employment Benefits Trust Account as described in subdivision (b). Upon agreement and authorization of the board of retirement and the governing body of a participating employer, the retirement system may administer a post-employment health, life, or other welfare benefit plan sponsored by the participating employer and funded through the Post-Employment Benefits Trust Account.

(g) In accordance with procedures established in the written agreement described in subdivision (f), the participating employer may elect to terminate participation in the Post-Employment Benefits Trust and instruct the retirement system to either (1) transfer the funds held in the Post-Employment Benefits Trust Account to a successor trustee named by the employer, or (2) disburse the trust assets in accordance with subdivision (h). In addition, the board of retirement may terminate the participation of a participating employer in the Post-Employment Benefits Trust Account if either:

(1) The board of retirement finds that the participating employer is unable to satisfy the terms and conditions required by this article, the rules and procedures established by the board, or the participation agreement between the participating employer and the board of retirement.

(2) The board of retirement elects to terminate the Post-Employment Benefits Trust Account.

(h) If the board of retirement terminates the participation of an employer in the Post-Employment Benefits Trust Account, as described in paragraph (1) or (2) of subdivision (g), the funds attributable to that employer shall remain in the Post-Employment Benefits Trust Account, for the continued payment of post-employment benefits for current and future participants and the costs of administration and investment.

(i) If the board of retirement elects to terminate the Post-Employment Benefits Trust Account, the retirement system shall disburse the funds in Post-Employment Benefits Trust Account in the following order and manner:

(1) The retirement system shall retain an amount sufficient to pay for the post-employment insurance benefits for participants in the post-employment insurance plan or plans provided by the former participating employer.

(2) The retirement system shall retain an amount sufficient to pay reasonable administrative and investment costs described in this section.

(3) After the amounts in paragraphs (1) and (2) have been retained or disbursed, the retirement system shall pay any remaining funds to the former participating employer or employers.

31694.2. An employer who elects to participate in the Post-Employment Benefits Trust Account shall be required to establish, fund, and apply distributions from the Post-Employment Benefits Trust Account, and administer a post-employment health, life, or other welfare benefit plan or plans funded through the Post-Employment Benefits Trust Account, pursuant to applicable federal tax requirements or other legal provisions. An employer may expressly delegate its responsibilities under this section to the retirement system as described in subdivision (f) of Section 31694.1.

31694.3. (a) The board of supervisors of a county, or the governing body of a district, may establish, by resolution or ordinance, its own trust for the sole purpose of funding any post-employment benefits provided under a group health, life, or other welfare benefits plan or plans established and maintained by that county or district.

(b) The board of retirement and, if applicable, the board of investments, may, with the agreement of the county or district, act as one or more of the following for that employer-established trust: trustee, third-party administrator, or investment manager. The board of retirement and, if applicable, the board of investments, may enter a trust agreement, third-party administrative services agreement, investment manager agreement, or other appropriate agreement with the county or district, which shall establish the respective roles and responsibilities of the parties with respect to the administration and investment of the employer-established trust. That agreement shall provide for the manner and method of payment for the reasonable costs related to investment expenses for, and administration of, the employer-established trust. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(c) The county or district may contract with an entity other than the board of retirement or board of investments to act as trustee, third-party administrator, or investment manager for the trust.

(d) Contributions to the employer-established trust may include the proceeds of debt issued by the county or district solely for the purpose of funding post-employment health, life, or other welfare benefits.

31694.4. This article shall not apply to a county, district, or other public entity in a county of the first class as defined by Section 28020 until the provisions of this article are funded pursuant to the provisions of a ratified collective bargaining agreement by that county, district, or other public entity.

31694.5. A contract entered into between a public employer and a board of retirement or board of investments as described in Section 31694.1 shall not change the obligations of a public employer, board of retirement, or board of investments that are created under other contracts, laws, ordinances, regulations, or similar actions to provide benefits for employees or retired employees of a participating county, district, or other public entity, or their qualified spouses, dependents, and beneficiaries.

SEC. 7. Section 70046.2 is added to the Government Code, to read:

70046.2. (a) In Fresno County, the compensation of each regular official court reporter shall be determined through the collective bargaining process.

(b) For the purposes of retirement, the compensation of each regular official court reporter shall be deemed to be the total of all per diem and transcription fees paid by the county or court to that regular official court reporter for all reporting services, plus his or her salary.

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 for the 2006–07 fiscal year, and thereby facilitate the orderly administration of local government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 847

An act to amend Section 21100 of the Water Code, relating to water.

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

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

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

(a) Irrigation districts that supply water for residential, business, or industrial use may no longer favor the special concerns of landowners over the general welfare of all residents. Therefore, the exclusion of nonlandowners from serving as directors of those districts may be inappropriate.

(b) In those districts, irrigation water sales, property taxes, and assessments are not the sole source of funding and, therefore, the customers who pay the rates for residential, business, or industrial water service should also be eligible to serve on the boards of those districts.

(c) These districts have a direct and substantial effect upon the nonlandowners residing within their boundaries. Under these circumstances, it would be inappropriate to deprive nonlandowners of the right to seek election as district directors.

(d) The Legislature, however, recognizes that numerous irrigation districts operate throughout the state whose primary function is the irrigation and drainage of farmland, and whose principal constituents are landowners. Therefore, in those districts it may be demonstrated that their functions have a disproportionate effect and impose a distinctive burden upon landowners and consequently, only those landowners, as landowners, should be eligible to seek election as district directors.

SEC. 2. Section 21100 of the Water Code is amended to read:

21100. (a) Each director, except as otherwise provided in this division, shall be a voter and a landowner in the district and a resident of the division that he or she represents at the time of his or her nomination or appointment and through his or her entire term, except in the case of the director elected at a formation election. A director elected at a formation election shall be a resident, landowner, and voter in the proposed district at the time of his or her nomination and a resident of the division that he or she represents during his or her entire term.

(b) In any district having no more than 15 landowners who are voters in the district, a person need not be a voter but shall be qualified to be a director of the district if he or she is a landowner of the district at the time of his or her nomination or appointment and during his or her entire term.

(c) In a district providing retail electricity for residents of the district, each director, except as otherwise provided in this division, shall be a voter of the district and a resident of the division that he or she represents at the time of his or her nomination or appointment and during his or her entire term, except in the case of a director elected at a formation election. A director elected at a formation election shall be a resident in

the proposed district at the time of his or her nomination and a resident of the division that he or she represents during his or her entire term.

(d) (1) Notwithstanding subdivision (a) of Section 21100, except as provided in paragraph (2), for the purpose of meeting the requirements of that subdivision, a person need not be a landowner within the district to be qualified to be a director of the district if either of the following applies:

(A) The person serves or seeks to serve on the board of directors of a district without divisions and the district is required to submit an urban water management plan pursuant to the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6).

(B) (i) The person serves or seeks to serve on the board of directors of a district with divisions, the district is required to submit an urban water management plan pursuant to the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6), and the district, within the division that the person represents or seeks to represent, supplies water as a public water system subject to Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code.

(2) A director appointed or elected before January 1, 2007, shall be subject to the qualification requirements imposed by subdivision (a) until the expiration of his or her term.

CHAPTER 848

An act to add Section 8314.5 to the Government Code, relating to state computers.

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

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

SECTION 1. Section 8314.5 is added to the Government Code, to read:

8314.5. (a) In furtherance of Section 8314 and except as provided in subdivision (b), it shall be unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to knowingly use a state-owned or state-leased computer to access, view, download, or otherwise obtain obscene matter.

(b) This section does not apply to accessing, viewing, downloading, or otherwise obtaining obscene matter for use consistent with legitimate law enforcement purposes, to permit a state agency to conduct an administrative disciplinary investigation, or for legitimate medical, scientific, academic, or legislative purposes, or for other legitimate state purposes.

(c) "Obscene matter" as used in this section has the meaning specified in Section 311 of the Penal Code.

(d) "State-owned or state-leased computer" means a computer owned or leased by one of the following:

(1) A state agency, as defined by Section 11000, including the California State University.

(2) The University of California.

(3) The Legislature.

(e) This section shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

CHAPTER 849

An act to add Chapter 4.1 (commencing with Section 6310) to Division 7 of Title 1 of the Government Code, relating to an international genocide memorial.

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

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

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

(a) California is home to millions of people of diverse ethnicities, many of whom are survivors and descendants of government-sponsored ethnic cleansing.

(b) California recognizes the atrocities of all ethnic cleansing campaigns, including, among many others, the Holocaust, Kosovo, the Armenian Genocide, Rwanda, Darfur, African-American slaves, Native Americans, and the plight of the Hmong in Southeast Asia.

(c) Many times over the course of history, nations have lifted the sword against people living within their own nation who are of a different ethnicity or religion. People have been displaced and lives have been lost trying to escape the horror and destruction of these actions.

(d) Many of these displaced communities have chosen California as a place to start new lives, a place where they may celebrate the character and traditions of their ancestors that nearly led to their destruction.

(e) These Californians continue to seek compassion and understanding for the atrocities that they faced during these horrible crimes against humanity.

(f) While some governments have apologized and made reparations for their grievous misdeeds, many communities still wait for acknowledgment and recognition of the atrocities they faced under government sponsorship.

(g) In the words of Shoah survivors, "We shall never forget" these and other atrocities committed at the hands of man so that they must never be repeated.

SEC. 2. Chapter 4.1 (commencing with Section 6310) is added to Division 7 of Title 1 of the Government Code, to read:

Chapter 4.1. International Genocide Memorial

6310. (a) There is in state government the International Genocide Memorial Commission composed of nine members, as follows:

(1) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly. The nonlegislative member shall be a genocide survivor or a descendant of a genocide survivor.

(2) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate. The nonlegislative member shall be a genocide survivor or a descendant of a genocide survivor.

(3) Five members appointed by the Governor, one of whom shall be a member of the Governor's staff or a Governor's appointee in the executive branch of state government and at least four of whom shall be genocide survivors or descendants of genocide survivors.

(b) The members shall elect one of their number to serve as chairperson.

(c) Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties.

(d) Members of the commission may select representatives to attend commission activities if they themselves are unable to attend.

(e) Members of the commission shall receive no compensation but, except for the legislative members, shall receive per diem and expenses while engaged in commission activities.

6311. (a) The construction of a memorial to California's genocide survivors in the Capitol Historic Region is hereby authorized. The actual construction of the memorial may not proceed without the prior approval of the Department of General Services and the Capitol Park Master Plan Group.

(b) The department shall not begin construction of the memorial until the master plan of the State Capitol Park is approved and adopted by the Joint Committee on Rules.

(c) Funds for the construction of the memorial shall be provided through private contributions. The commission may receive contributions for this purpose.

(d) The department, in consultation with the International Genocide Memorial Commission, shall seek to accomplish the following goals:

(1) Review the preliminary design plans to identify potential maintenance concerns.

(2) Compliance with the Americans with Disabilities Act and other safety concerns.

(3) Review and approval of proper California Environmental Quality Act documents prepared for work at the designated historic property.

(4) Review of final construction documents to ensure that all requirements are met.

(5) Preparation of the right of entry permit outlining the final area of work, final construction documents, construction plans, the contractor hired to perform the work, insurance, bonding, provisions for damage to state property, and inspection requirements.

6312. With respect to the design and construction of the memorial, the commission may do all of the following:

(a) Establish a schedule for design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature biannually through the Joint Committee on Rules on the progress of the memorial notwithstanding Section 7550.5.

6313. (a) No state moneys shall be expended for any of the purposes specified in this chapter. Funds for the construction of the memorial shall be provided exclusively through private contributions for this purpose.

(b) If the memorial is constructed, the commission shall maintain the memorial by providing for all necessary funding and resources.

CHAPTER 850

An act to amend Sections 1775 and 1777 of the Business and Professions Code, relating to dentistry.

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

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

SECTION 1. Section 1775 of the Business and Professions Code is amended to read:

1775. (a) A registered dental hygienist in alternative practice may perform those preventive and therapeutic functions described in subdivision (a) of Section 1760, subdivision (a) of Section 1760.5, and subdivisions (a) and (b) of Section 1762 as an employee of a dentist or of another registered dental hygienist in alternative practice, or as an independent contractor, or as a sole proprietor of an alternative dental hygiene practice, or as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code or as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(b) A registered dental hygienist in alternative practice may perform the dental hygiene services specified in subdivision (a) in the following settings:

(1) Residences of the homebound.

(2) Schools.

(3) Residential facilities and other institutions.

(4) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A registered dental hygienist in alternative practice shall not do any of the following:

(1) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond those services specified in subdivision (a).

(2) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

(d) A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

(e) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(f) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing functions specified in subdivision (b) of Section 1751.

(g) A registered dental hygienist in alternative practice shall provide to the board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

(h) (1) A dental hygienist in alternative practice may provide services to a patient without obtaining written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state.

(2) If a dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that he or she provides services to a patient, he or she shall obtain written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. The verification shall include a prescription for dental hygiene services as described in subdivision (i). Failure to comply with this paragraph or subdivision (i) shall be considered unprofessional conduct.

(i) A registered dental hygienist in alternative practice may perform dental hygiene services for a patient who presents to the registered hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed two years from the date that it was issued.

SEC. 2. Section 1777 of the Business and Professions Code is amended to read:

1777. While employed by or practicing in a primary care clinic or specialty clinic licensed pursuant to Section 1204 of the Health and Safety Code, in a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or a clinic owned and operated by a hospital that maintains the primary contract

with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code, a registered dental assistant or a registered dental assistant in extended functions may perform the following procedures under the direct supervision of a registered dental hygienist or a registered dental hygienist in alternative practice, pursuant to subdivision (b) of Section 1763:

(a) Coronal polishing, after providing evidence to the board of having completed a board-approved course in that procedure.

(b) Application of topical fluoride.

(c) Application of sealants, after providing evidence to the board of having completed a board-approved course in that procedure.

CHAPTER 851

An act to amend Section 39607.5 of the Health and Safety Code, relating to air resources.

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

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

SECTION 1. Section 39607.5 of the Health and Safety Code is amended to read:

39607.5. (a) The state board shall develop, and adopt in a public hearing, a methodology for use by districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources, including those issued under market-based incentive programs, when those credits are used interchangeably.

(b) In developing the methodology, the state board shall do all of the following:

(1) Ensure that the methodology results in the maintenance and improvement of air quality consistent with this division.

(2) Allow those credits to be used in a market-based incentive program adopted pursuant to Section 39616 that requires annual reductions in emissions through declining annual allocations, and allow the use of all of those credits, including those from a market-based incentive program, to meet other stationary or mobile source requirements that do not expressly prohibit that use.

(3) Ensure that the methodology does not do any of the following:

(A) Result in the crediting of air emissions that already have been identified as emission reductions necessary to achieve state and federal ambient air quality standards.

(B) Provide for an additional discount of credits solely as a result of emission reduction credits trading if a district already has discounted the credit as part of its process of identifying and granting those credits to sources.

(C) Otherwise provide for double-counting emission reductions.

(4) Consult with, and consider the suggestions of, the public and all interested parties, including, but not limited to, the California Air Pollution Control Officers Association and all affected regulated entities.

(5) Ensure that any credits, whether they are derived from stationary, mobile, indirect, or areawide sources, shall be permanent, enforceable, quantifiable, and surplus.

(6) Ensure that any credits derived from a market-based incentive program adopted pursuant to Section 39616 are permanent, enforceable, quantifiable, and are in addition to any required controls, unless those credits otherwise comply with paragraph (2).

(7) Consider all of the following factors:

(A) How long credits should be valid.

(B) Whether, and which, banking opportunities may exist for credits.

(C) How to provide flexibility to sources seeking to use credits so that they remain interchangeable and negotiable until used.

(D) How to ensure a viable trading process for sources wishing to trade credits consistent with this section.

(E) How to ensure that, if credits may be used within and between adjacent districts or air basins where sources are in proximity to one another, the use occurs while maintaining and improving air quality in both districts or air basins.

(c) If necessary, the state board shall periodically update the methodology as it applies to future transactions. The state board's environmental justice advisory committee shall review each updated methodology.

(d) The state board shall periodically review each district's emission reduction and credit trading programs to ensure that the programs comply with the methodology developed pursuant to this section.

(e) The state board shall post on its Web site, at a minimum by January 1 each year, actions taken by the state board to implement this section.

CHAPTER 852

An act relating to state property, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. (a) The Legislature authorizes, pursuant to the requirements of that certain quit claim deed to the City of San Bernardino dated December 5, 1991, and recorded on January 15, 1992, as No. 92-016139, and also known as the Seccombe Lake Park, the City of San Bernardino to transfer a portion of the property, not to exceed 12.5 acres, so conveyed to the Redevelopment Agency of the City of San Bernardino for sale for private development purposes, provided that the sale meets all of the following conditions:

(1) The City of San Bernardino and the Redevelopment Agency of the City of San Bernardino shall prepare a detailed land plan showing which specific parcels of the property referred to in this section will be sold and which properties elsewhere in the City of San Bernardino will be acquired or developed, or both, with the proceeds of the sale of the parkland. The land plan shall include a provision requiring the City of San Bernardino to implement the land plan in accordance with the requirements of this section.

(2) The land plan and the environmental review shall demonstrate that there is no net loss in park acreage as a result of the implementation of the plan. If the sale of property and the acquisition of replacement parkland results in any loss of parkland within the City of San Bernardino, the city shall, within the times specified in subparagraphs (A) and (B), acquire or dedicate, or both, additional parkland within the city to compensate for that loss. The additional parkland shall be developed and dedicated in perpetuity for park purposes.

(A) For the portions of the replacement parkland that may be owned by the City of San Bernardino or the Redevelopment Agency of the City of San Bernardino as of January 1, 2006, the city shall, prior to the actual transfer of title of any portion of the Seccombe Lake Park to the redevelopment agency, complete both of the following:

(i) The city shall have complied with the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400) of Division 5 of the Public Resources Code), and submitted to the Department of Parks and Recreation evidence of compliance, including, but not limited

to, a copy of the recorded deed and title policy for, and map of, the substitute parkland required pursuant to that act.

(ii) The city shall have submitted a revised map of Seccombe Lake Park, with the revised acreage to the Department of Parks and Recreation.

(B) For the portions of the replacement parkland that are not presently owned by the City of San Bernardino or by the Redevelopment Agency of the City of San Bernardino as of January 1, 2006, by a date not later than two years after the sale of the portion of Seccombe Lake Park authorized for private development purposes, the City of San Bernardino and the Redevelopment Agency of the City of San Bernardino shall acquire the fee title for and develop for park purposes the equivalent acreage of replacement parkland in one or two parcels within reasonable proximity to Seccombe Lake Park for the sole and exclusive purpose of utilizing the replacement parkland for park purposes in accordance with the Public Park Preservation Act of 1971.

(3) The City of San Bernardino shall conduct a public hearing before the city council for the purpose of review of the land plan and for taking public comment. The hearing shall be scheduled for a specific time during a regularly scheduled meeting of the city council and shall be separately noticed and publicized.

(4) The City of San Bernardino or the Redevelopment Agency of the City of San Bernardino, prior to closing any real property transactions with respect to any sales pursuant to the land plan, shall submit an independent appraisal of the land to be sold and the replacement land to be acquired, developed, or both, to the Department of General Services for concurrence with state appraisal standards. This appraisal shall be made available to the public.

(5) All land acquired or dedicated, including land previously acquired by the state and transferred to the City of San Bernardino, other than land identified for sale pursuant to the land plan, shall be protected in perpetuity by recordation of public park use restrictions at the time of purchase or dedication, and, in the case of properties previously acquired from the state that are intended to remain public parkland, within 60 days after approval of the land plan by the City of San Bernardino or within 60 days of the acquisition of the replacement parkland. The City of San Bernardino shall not sell or acquire land pursuant to this section unless and until the council approves the land plan specified in subparagraph (B) and the Department of General Services reviews and approves the appraisal, conveyance, and acquisition documents. The city shall reimburse the Department of General Services and the Department of Parks and Recreation for any costs or expenses associated with their review and approval of the appraisal, conveyance, and acquisition documents.

(b) All transactions that occur pursuant to this section shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) Notwithstanding any other provision of this section, the final transfer and recording of any portion of Seccombe Lake Park shall not occur until after the City of San Bernardino has done both of the following:

(1) Acquired the replacement parkland and developed it as a park.

(2) Adopted a resolution detailing an improvement and maintenance plan for Seccombe Lake Park and all replacement parkland.

(d) It is the intent of the Legislature that the transfer of property authorized by this section is contingent on the City of San Bernardino providing adequate funding for operation and maintenance of Seccombe Lake Park and all replacement parkland.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the people of the state may have the benefit of a more appropriate use of existing park and open-space lands as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 853

An act to amend, repeal, and add Section 116875 of the Health and Safety Code, relating to lead plumbing.

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

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

SECTION 1. Section 116875 of the Health and Safety Code is amended to read:

116875. (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing.

(c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.

(d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e) For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

(f) 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. 2. Section 116875 is added to the Health and Safety Code, to read:

116875. (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b) (1) No person shall introduce into commerceany pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, as defined in subdivision (e). This includes kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking, but excludes service saddles, backflow preventers for nonpotable services such as irrigation and industrial, and water distribution main gate valves that are two inches in diameter and above.

(2) Pipes, pipe or plumbing fittings, or fixtures that are used in manufacturing, industrial processing, for irrigation purposes, and any other uses where the water is not intended for human consumption through drinking or cooking are not subject to the requirements of paragraph (1).

(3) For all purposes other than manufacturing, industrial processing, or to convey or dispense water for human consumption, "lead free" is defined in subdivision (f).

(c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.

(d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating

that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e) For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.

(f) For the purposes of paragraph (3) of subdivision (b), "lead free," consistent with the requirements of federal law, means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

(g) This section shall become operative on January 1, 2010.

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 854

An act to amend Sections 19805, 19812, and 19963 of, and to add Sections 19954 and 19962 to, the Business and Professions Code, relating to gaming.

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

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

SECTION 1. Section 19805 of the Business and Professions Code is amended to read:

19805. As used in this chapter, the following definitions shall apply:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) "Applicant" means any person who has applied for, or is about to apply for, a state gambling license, a key employee license, a registration, a finding of suitability, a work permit, a manufacturer's or distributor's license, or an approval of any act or transaction for which the approval or authorization of the commission or division is required or permitted under this chapter.

(c) "Banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

(d) "Commission" means the California Gambling Control Commission.

(e) "Controlled gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(f) "Controlled game" means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(g) "Director," when used in connection with a corporation, means any director of a corporation or any person performing similar functions with respect to any organization. In any other case, "director" means the Director of the Division of Gambling Control.

(h) "Division" means the Division of Gambling Control in the Department of Justice.

(i) "Finding of suitability" means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19857, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in Section 19859.

(j) "Game" and "gambling game" means any controlled game.

(k) "Gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(*l*) "Gambling enterprise employee" means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom

personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(m) "Gambling establishment," "establishment," or "licensed premises" except as otherwise defined in Section 19812, means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(n) "Gambling license" or "state gambling license" means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(o) "Gambling operation" means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(p) "Gross revenue" means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(q) "Hours of operation" means the period during which a gambling establishment is open to conduct the play of controlled games within a 24-hour period. In determining whether there has been expansion of gambling relating to "hours of operation," the division shall consider the hours in the day when the local ordinance permitted the gambling establishment to be open for business on January 1, 1996, and compare the current ordinance and the hours during which the gambling establishment may be open for business. The fact that the ordinance was amended to permit gambling on a day, when gambling was not permitted on January 1, 1996, shall not be considered in determining whether there has been gambling in excess of that permitted by Section 19961.

(r) "House" means the gambling establishment, and any owner, shareholder, partner, key employee, or landlord thereof.

(s) "Independent agent," except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(t) "Institutional investor" means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the

Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the commission may determine for reasons consistent with the policies of this chapter.

(u) "Key employee" means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the division for reasons consistent with the policies of this chapter.

(v) "Key employee license" means a state license authorizing the holder to be associated with a gambling enterprise as a key employee.

(w) "Licensed gambling establishment" means the gambling premises encompassed by a state gambling license.

(x) "Limited partnership" means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(y) "Limited partnership interest" means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(z) "Owner licensee" means an owner of a gambling enterprise who holds a state gambling license.

(aa) "Person," unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(bb) "Player" means a patron of a gambling establishment who participates in a controlled game.

(cc) "Player-dealer" and "controlled game featuring a player-dealer position" refer to a position in a controlled game, as defined by the approved rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at the same table, provided that this position is rotated amongst the other seated players in the game.

(dd) "Publicly traded racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(ee) "Qualified racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(ff) "Work permit" means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 2. Section 19812 of the Business and Professions Code is amended to read:

19812. (a) Each member of the commission shall be a citizen of the United States and a resident of this state.

(b) No Member of the Legislature, no person holding any elective office in state, county, or local government, and no officer or official of any political party is eligible for appointment to the commission.

(c) No more than three of the five members of the commission shall be members of the same political party.

(d) A person is ineligible for appointment to the commission if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment. For the purposes of this subdivision, "gambling establishment" means one or more rooms wherein any gaming within the meaning of Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code, or any controlled game within the meaning of Section 337j of the Penal Code, is conducted, whether or not the activity occurred in California.

(e) One member of the commission shall be a certified public accountant or a person with experience in banking or finance, one member shall be an attorney and a member of the State Bar of California with regulatory law experience, one member shall have a background in law enforcement and criminal investigation, one member shall have a background in business with at least five years of business experience or alternatively five years of governmental experience, and one member shall be from the public at large.

SEC. 3. Section 19954 is added to the Business and Professions Code, to read:

19954. In addition to those fees required pursuant to Section 19951, each licensee shall pay an additional one hundred dollars ($100) for each table for which it is licensed to the Department of Alcohol and Drug Programs for deposit in the Gambling Addiction Program Fund, which is hereby established to benefit those who have a gambling addiction problem. These funds shall be made available, upon appropriation by the Legislature, to community-based organizations that directly provide aid and assistance to those persons with a gambling addiction problem.

SEC. 4. Section 19962 is added to the Business and Professions Code, 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 expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section shall become operative on January 1, 2010.

(d) 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. 5. Section 19963 of the Business and Professions Code is amended to read:

19963. (a) In addition to any other limitations on the expansion of gambling imposed by Section 19962 or any provision of this chapter, the commission may not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

(b) This section shall remain in effect only until January 1, 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.

CHAPTER 855

An act to amend Sections 8592.1, 8592.2, and 8592.3 of the Government Code, relating to public safety.

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

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

SECTION 1. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities, and which consists of representatives of the following state entities:

(1) The Office of Emergency Services, who shall serve as chairperson.
(2) The California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.
(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Health Services.
(11) The Emergency Medical Services Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.
(14) The Military Department.
(15) Department of Finance.

(c) "First response agencies" means public agencies that, in the early stages of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

SEC. 1.5. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities and which consists of representatives of the following state entities:

(1) The Office of Emergency Services, who shall serve as chairperson.
(2) The California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.
(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Health Services.
(11) The Emergency Medical Services Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.
(14) The Military Department.
(15) Department of Finance.

(c) "First response agencies" means public agencies that, in the early stages of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(e) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 2. Section 8592.2 of the Government Code is amended to read:

8592.2. (a) The committee shall have primary responsibility in state government for both of the following:

(1) Developing and implementing a statewide integrated public safety communication system that facilitates interoperability among state public safety departments listed in subdivision (b) of Section 8592.1 and other first response agencies, as the committee deems appropriate.

(2) Coordinating other shared uses of the public safety spectrum consistent with decisions and regulations of the Federal Communications Commission.

(b) In order to facilitate effective use of the public safety spectrum, the committee shall consult with any regional planning committee or other federal, state, or local entity with responsibility for developing, operating, or monitoring interoperability of the public safety spectrum.

(c) The committee shall meet at least twice a year, of which one meeting shall be a joint meeting with the California Statewide Interoperability Executive Committee to enhance coordination and cooperation at all organizational levels and a cohesive approach to communications interoperability.

SEC. 3. Section 8592.3 of the Government Code is amended to read:

8592.3. (a) The committee shall consult with the following organizations and entities:

(1) California State Peace Officers Association.
(2) California Police Chiefs Association.
(3) California State Sheriffs' Association.
(4) California Professional Firefighters.
(5) California Fire Chiefs Association.
(6) California State Association of Counties.
(7) League of California Cities.
(8) California State Firefighters Association.
(9) California Coalition of Law Enforcement Associations.
(10) California Correctional Peace Officers Association.
(11) CDF Firefighters.
(12) California Union of Safety Employees.

(b) Each organization or entity listed in subdivision (a) may designate a representative to work with the committee to develop agreements for interoperability or other shared use of the public safety spectrum between the state public safety departments listed in subdivision (b) of Section 8592.1 and local or federal agencies that operate a communication system

on the public safety spectrum and that have capacity and technical ability for interoperability or other shared use.

(c) The committee shall develop a model memorandum of understanding that sets forth general terms for interoperability or other shared uses among jurisdictions, which may be modified as necessary for a particular agreement entered into pursuant to subdivision (b).

(d) A local agency may not be required to adopt the model memorandum of understanding developed pursuant to subdivision (c).

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 8592.1 of the Government Code proposed by both this bill and AB 2116. 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 8592.1 of the Government Code, and (3) this bill is enacted after AB 2116, in which case Section 1 of this bill shall not become operative.

CHAPTER 856

An act to amend Sections 298, 298.5, and 358 of the Family Code, to amend Section 124250 of the Health and Safety Code, and to amend Sections 13519, 13823.15, and 13823.16 of, and to add Section 13823.17 to, the Penal Code, relating to domestic violence.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 "Equality in Prevention and Services for Domestic Abuse Act."

SEC. 2. Section 298 of the Family Code is amended to read:

298. (a) (1) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(2) When funding allows, the Secretary of State shall include on the form notice that a lesbian, gay, bisexual, and transgender specific domestic abuse brochure is available upon request.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(3) There is hereby established a fee of twenty-three dollars ($23) to be charged in addition to the existing fees established by regulation to persons filing domestic partner registrations pursuant to Section 297 for development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence, conducted pursuant to Section 13823.15 of the Penal Code, and for the support of a minigrant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and transgender community. This paragraph shall not apply to persons of opposite sexes filing a domestic partnership registration and who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297.

(4) The fee established by paragraph (3) shall be deposited in the Equality in Prevention and Services for Domestic Abuse Fund, which is hereby established. The fund shall be administered by the Office of Emergency Services, and expenditures from the fund shall be used to support the purposes of paragraph (3).

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that he or she consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

SEC. 3. Section 298.5 of the Family Code is amended to read:

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership, and except for those opposite sex domestic partners who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297, a copy of the brochure that is made available to county clerks and the Secretary of State by the State Department of Health Services pursuant to Section 358 and distributed to individuals receiving a confidential marriage license pursuant to Section 503, to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(d) When funding allows, the Secretary of State shall print and make available upon request, pursuant to Section 358, a lesbian, gay, bisexual, and transgender specific domestic abuse brochure developed by the State Department of Health Services and made available to the Secretary of State to domestic partners who qualify pursuant to Section 297.

SEC. 4. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Health Services shall prepare and publish a brochure which shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and contain a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notary publics receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute

a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public authorizing a confidential marriage under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 4.5. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Health Services shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 5. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that woman.

(2) "Shelter-based" means an established system of services where battered women and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for battered women and their children.

(b) The Maternal and Child Health Branch of the State Department of Health Services shall administer a comprehensive shelter-based services grant program to battered women's shelters pursuant to this section.

(c) The Maternal and Child Health Branch shall administer grants, awarded as the result of a request for application process, to battered women's shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women's shelters to provide services, in any of the following four areas:

(1) Emergency shelter to women and their children escaping violent family situations.

(2) Transitional housing programs to help women and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help women and their children pursue the appropriate legal options.

(4) Other support services for battered women and their children.

(d) (1) The Maternal and Child Health Branch of the State Department of Health Services shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to battered women and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency

visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal and Child Health Branch shall provide a written report to the agency summarizing the agency's performance, any deficiencies noted, and any corrective action needed.

(3) Where an agency receives funding from both the Maternal and Child Health Branch of the State Department of Health Services and the Domestic Violence Branch of the Office of Criminal Justice Planning during any grant cycle, the Maternal and Child Health Branch and the Domestic Violence Branch shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the State Department of Health Services shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal and Child Health Branch of the State Department of Health Services shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve battered women and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for battered women in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal and Child Health Branch of the State Department of Health Services shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do all of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers

who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 5.5. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that woman.

(2) "Shelter-based" means an established system of services where battered women and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for battered women and their children.

(b) The Maternal and Child Health Branch of the State Department of Health Services shall administer a comprehensive shelter-based services grant program to battered women's shelters pursuant to this section.

(c) The Maternal and Child Health Branch shall administer grants, awarded as the result of a request for application process, to battered women's shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women's shelters to provide services, in any of the following four areas:

(1) Emergency shelter to women and their children escaping violent family situations.

(2) Transitional housing programs to help women and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help women and their children pursue the appropriate legal options.

(4) Other support services for battered women and their children.

(d) (1) The Maternal and Child Health Branch of the State Department of Health Services shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to battered

women and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal and Child Health Branch shall provide a written report to the agency summarizing the agency's performance, any deficiencies noted, and any corrective action needed.

(3) If an agency receives funding from both the Maternal and Child Health Branch of the State Department of Health Services and the Domestic Violence Program in the Office of Emergency Services during any grant cycle, the Maternal and Child Health Branch and the Comprehensive Statewide Domestic Violence Program shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the State Department of Health Services shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered

women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal and Child Health Branch of the State Department of Health Services shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve battered women and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for battered women in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal and Child Health Branch of the State Department of Health Services shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do all of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1

of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 6. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

(b) As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (b) of Section 830.2, any peace officer of the California State University Police Departments, as defined in subdivision (c) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(c) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on peace officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The signs of domestic violence.

(6) The legal rights of, and remedies available to, victims of domestic violence.

(7) The use of an arrest by a private person in a domestic violence situation.

(8) Documentation, report writing, and evidence collection.

(9) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(10) Tenancy issues and domestic violence.

(11) The impact on children of law enforcement intervention in domestic violence.

(12) The services and facilities available to victims and batterers.

(13) The use and applications of this code in domestic violence situations.

(14) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(15) Verification and enforcement of stay-away orders.

(16) Cite and release policies.

(17) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

(d) The guidelines developed by the commission shall also incorporate the foregoing factors.

(e) (1) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission.

(2) Except as provided in paragraph (3), the training specified in paragraph (1) shall be completed no later than January 1, 1989.

(3) (A) The training for peace officers of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, shall be completed no later than January 1, 1992.

(B) The training for peace officers of the University of California Police Department and the California State University Police Departments, as defined in Section 830.2, shall be completed no later than January 1, 1993.

(C) The training for peace officers employed by a housing authority, as defined in subdivision (d) of Section 830.31, shall be completed no later than January 1, 1995.

(4) Local law enforcement agencies are encouraged to include, as a part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(f) (1) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association

of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Partnership to End Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Partnership to End Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community in connection with domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

(2) The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(g) Each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence shall complete, every two years, an updated course of instruction on domestic violence that is developed according to the standards and guidelines developed pursuant to subdivision (d). The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.

SEC. 7. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to ensure that all victims of domestic violence served by the OES Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the OES a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The OES shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.

(2) Counseling.
(3) Business centers.
(4) Emergency "safe" homes or shelters for victims and families.
(5) Emergency food and clothing.
(6) Emergency response to calls from law enforcement.
(7) Hospital emergency room protocol and assistance.
(8) Emergency transportation.
(9) Supportive peer counseling.
(10) Counseling for children.
(11) Court and social service advocacy.
(12) Legal assistance with temporary restraining orders, devices, and custody disputes.
(13) Community resource and referral.
(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the OES and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The OES shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The OES shall develop and disseminate throughout the state information and materials concerning domestic violence. The OES shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The OES may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the OES as follows:

(1) The OES shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal (RFP) process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any DVSSP funded through this program in the previous grant cycle, including any DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history

fails to meet the standards established by the OES pursuant to paragraph (1).

(6) The OES shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the OES shall provide a written report to the DVSSP summarizing the performance of the DVSSP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(8) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the OES may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(9) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be

made in accordance with the appeal process established by the OES. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(10) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(11) Notwithstanding any other provision of this section, OES may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(12) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(13) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(14) The following definitions shall apply for purposes of this subdivision:

(A) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners,

including physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that woman.

(B) "Domestic violence shelter service provider" or "DVSSP" means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The OES shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 7.5. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to ensure that all victims of domestic violence served by the OES Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the OES a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The OES shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.
(2) Counseling.
(3) Business centers.
(4) Emergency "safe" homes or shelters for victims and families.
(5) Emergency food and clothing.
(6) Emergency response to calls from law enforcement.
(7) Hospital emergency room protocol and assistance.
(8) Emergency transportation.
(9) Supportive peer counseling.
(10) Counseling for children.

(11) Court and social service advocacy.

(12) Legal assistance with temporary restraining orders, devices, and custody disputes.

(13) Community resource and referral.

(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the OES and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The OES shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The OES shall develop and disseminate throughout the state information and materials concerning domestic violence. The OES shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The OES may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the OES as follows:

(1) The OES shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to

subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any DVSSP funded through this program in the previous grant cycle, including any DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the OES pursuant to paragraph (1).

(6) The OES shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the OES shall provide a written report to the DVSSP summarizing the performance of the DVSSP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(8) If an agency receives funding from both the Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services and the Maternal and Child Health Branch of the State Department of Health Services during any grant cycle, the Comprehensive Statewide Domestic Violence Program and the Maternal and Child Health Branch shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(9) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the OES may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(10) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the OES. The appeal process shall allow a DVSSP a minimum of 30

days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(11) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(12) Notwithstanding any other provision of this section, OES may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(13) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(14) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(15) The following definitions shall apply for purposes of this subdivision:

(A) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, including physical, sexual, and psychological abuse against the woman,

and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that woman.

(B) "Domestic violence shelter service provider" or "DVSSP" means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The OES shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 8. Section 13823.16 of the Penal Code is amended to read:

13823.16. (a) The Comprehensive Statewide Domestic Violence Program established pursuant to Section 13823.15 shall be collaboratively administered by the Office of Emergency Services (OES) and an advisory council. The membership of the OES Domestic Violence Advisory Council shall consist of experts in the provision of either direct or intervention services to battered women and their children, within the scope and intention of the OES Domestic Violence Assistance Program.

(b) The membership of the council shall consist of domestic violence victims' advocates, battered women service providers, at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community in connection with domestic violence, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence. At least one-half of the council membership shall consist of domestic violence victims' advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence. It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state. The council shall be composed of no more than 13 voting members and two nonvoting ex officio members who shall be appointed, as follows:

(1) Seven voting members shall be appointed by the Governor.

(2) Three voting members shall be appointed by the Speaker of the Assembly.

(3) Three voting members shall be appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one

appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with the council and participate in its activities to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

(c) The OES shall collaborate closely with the council in developing funding priorities, framing the request for proposals, and soliciting proposals.

(d) 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. 9. Section 13823.17 is added to the Penal Code, to read:

13823.17. (a) The Legislature finds the problem of domestic violence in the gay, lesbian, bisexual, and transgender community to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services for this population are underfunded and that members of this population are unserved or underserved in the state. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to increase access to culturally appropriate domestic violence education, prevention, and services for the gay, lesbian, bisexual, and transgender community.

(b) The goal of this section is to establish a targeted or directed minigrant program for the development and support of domestic violence programs and services for the gay, lesbian, bisexual, and transgender community. The OES shall use funds from the Equality in Prevention and Services for Domestic Abuse Fund to award at least four minigrants annually of up to ten thousand dollars ($10,000) to qualifying organizations to fund domestic violence programs and services such as:

(1) Twenty-four-hour crisis hotlines.

(2) Counseling.

(3) Court and social service advocacy.

(4) Legal assistance with temporary restraining orders, devices, and custody disputes.

(5) Community resource and referral.

(6) Household establishment assistance.

(7) Emergency housing.

(8) Educational workshops and publications.

(c) Each minigrant shall be awarded for a three-year term for the purposes of this section.

(d) In order to qualify for a minigrant award under this section, the recipient shall be a California nonprofit organization with a demonstrated history of working in the area of domestic violence education and prevention and serving the lesbian, gay, bisexual, and transgender community.

(e) The funding process for distributing minigrant awards to qualifying organizations shall be administered by the OES as follows:

(1) Minigrants that were not funded in the previous cycle shall be awarded to qualifying organizations as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes and to the extent possible, the response to the RFP shall not exceed 15 narrative pages, excluding attachments.

(2) The following criteria shall be used to evaluate minigrant proposals:

(A) Whether the proposed program or services would further the purpose of promoting healthy, nonviolent relationships in the lesbian, gay, bisexual and transgender community.

(B) Whether the proposed program or services would reach a significant number of people in and have the support of the lesbian, gay, bisexual, and transgender community.

(C) Whether the proposed program or services are grounded in a firm understanding of domestic violence and represent an innovative approach to addressing the issue.

(D) Whether the proposed program or services would reach unique and underserved sectors of the lesbian, gay, bisexual, and transgender community, such as youth, people of color, immigrants, and transgender persons.

(3) Minigrant funds shall not be used to support any of the following:

(A) Scholarships.

(B) Awards to individuals.

(C) Out-of-state travel.

(D) Projects that are substantially completed before the anticipated date of the grant award.

(E) Fundraising activities.

(4) Organizations reapplying for minigrants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the organization in relation to the standards established by this section. The response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any organization funded through this program in the previous minigrant cycle shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by this section.

(f) Minigrant recipients may seek, receive, and make use of any funds which may be available from all public and private sources to augment any funds received pursuant to this section.

(g) The OES may adopt rules as necessary to implement the minigrant program created under this section.

(h) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section.

(i) For purposes of this section, "domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual, and psychological abuse against the person, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that person.

SEC. 10. Section 4.5 of this bill incorporates amendments to Section 358 of the Family Code proposed by both this bill and AB 1102. 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 358 of the Family Code, and (3) this bill is enacted after AB 1102, in which case Section 4 of this bill shall not become operative.

SEC. 11. Section 5.5 of this bill incorporates amendments to Section 124250 of the Health and Safety Code proposed by both this bill and SB 1062. 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 124250 of the Health and Safety Code, and (3) this bill is enacted after SB 1062, in which case Section 5 of this bill shall not become operative.

SEC. 12. Section 7.5 of this bill incorporates amendments to Section 13823.15 of the Penal Code proposed by both this bill and SB 1062. 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 13823.15 of the Penal Code, and (3) this bill is enacted after SB 1062, in which case Section 7 of this bill shall not become operative.

CHAPTER 857

An act to amend Sections 26840.7 and 26840.8 of the Government Code, and to repeal and add Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to domestic violence.

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

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

SECTION 1. Section 26840.7 of the Government Code is amended to read:

26840.7. In addition to the fee prescribed by Section 26840 and as authorized by Section 26840.3, the county clerk shall collect a fee of twenty-three dollars ($23) at the time of issuance of the license. The fee shall be disposed of by the clerk pursuant to Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. Of this amount, four dollars ($4) shall be used, to the extent feasible, to develop or expand domestic violence shelter-based programs to target underserved areas and populations.

SEC. 2. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code or the county clerk, upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect a fee of twenty-three dollars ($23) at the time of providing the authorization. The fee shall be disposed of pursuant to Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. Of this amount, four dollars ($4) shall be used, to the extent feasible, to develop or expand domestic violence shelter-based programs to target underserved areas and populations.

SEC. 3. Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 4. Chapter 5 (commencing with Section 18290) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

Chapter 5. The Domestic Violence Shelter-Based Programs Act

18290. The Legislature hereby finds and declares that there is a present and growing need to develop innovative strategies and services to ameliorate and reduce the trauma of domestic violence. There are hundreds of thousands of persons in California who are regularly abused. In many cases, the acts of domestic violence lead to the death of one of the involved parties. Victims of domestic violence come from all socioeconomic classes and ethnic groups, though it is the poor who suffer most from domestic violence, since they have no immediate access to private counseling and shelter for themselves and their children. Children,

even when they are not physically assaulted, very often suffer deep and lasting emotional effects.

The Legislature further finds and declares that there is a high incidence of death and injury sustained by law enforcement officers in the handling of domestic disturbances. Police arrests for domestic violence are low, and victims are reluctant to press charges or make citizen's arrests. Furthermore, instances of domestic violence are considered to be the single most unreported crime in the state.

It is the intent of the Legislature to begin to explore and determine ways of achieving reductions in serious and fatal injuries to the victims of domestic violence and begin to clarify the problems, causes, and cures of domestic violence. In order to achieve these results, it is the intent of the Legislature that the state shall support projects in several areas throughout the state for the purpose of aiding victims of domestic violence by providing them a place to escape the destructive environment in an undisclosed and secured location, on a 24-hour basis, where staff meet the requirements set forth in Section 1037.1 of the Evidence Code.

It is further the intent of the Legislature to resolve conflicting interpretations as to whether county boards of supervisors have discretionary authority to fund nonshelter-based county domestic violence programs that lack any emergency or transitional shelter component, by restricting funding under this chapter to shelter-based domestic violence programs, as described in Sections 18294 and 18295. These clarifying and conforming changes are intended to be declaratory of existing law.

18291. For purposes of this chapter:

(a) "Domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

(b) "Cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, all of the following:

(1) Sexual relations between the parties while sharing the same living quarters.

(2) Sharing of income or expenses.

(3) Joint use or ownership of property.

(4) Whether the parties hold themselves out as husband and wife.

(5) The continuity of the relationship.

(6) The length of the relationship.

(c) "Domestic violence shelter" means a shelter for domestic violence victims that meets all of the following requirements:

(1) Provides shelter in an undisclosed and secured location.

(2) Provides staff that meet the requirements set forth in Section 1037.1 of the Evidence Code.

(3) Meets the requirements set forth in Section 18294.

(d) "Undisclosed" means a location that is not advertised or publicized.

18293. (a) In order to be eligible for funding pursuant to this chapter, a domestic violence shelter-based program shall demonstrate its ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state or county funds appropriated for the purposes of this chapter. Each domestic violence shelter-based program shall make every attempt to qualify the domestic violence shelter-based program for any available federal funding.

(b) No provision of this section is intended to prohibit domestic violence shelter-based programs receiving funds pursuant to this chapter from receiving additional funds from any other public or private source. Funds provided pursuant to this chapter shall not be used to reduce the financial support from other public or private sources.

(c) Proposed or existing domestic violence shelter-based programs that meet the requirements set forth in Section 18294, shall receive funding pursuant to this chapter upon the approval of the local board of supervisors.

(d) Funding shall be given to agencies and organizations whose primary function is to administer domestic violence shelter-based programs. Any additional fees received by Alameda County, Contra Costa County, Solano County, and the City of Berkeley at the time of issuance of a marriage license pursuant to Sections 18308, 18309, and 18309.5, that are in excess of the twenty-three dollar ($23) fee collected pursuant to this act, shall be available to that city or county for funding domestic violence programs other than domestic violence shelter-based programs.

(e) Prior to approving a domestic violence shelter-based program or programs for this funding, the board shall consult with individuals and groups that have expertise in the problems of domestic violence and in the operation of domestic violence shelter-based programs including operations of existing domestic violence shelter-based programs.

(f) Upon approving one or more domestic violence shelter-based programs for funding, the board shall direct the county treasurer to disburse moneys from the county's domestic violence shelter-based program special fund and for funding, the board shall designate a local agency to monitor the domestic violence shelter-based program or programs. This monitoring shall include information regarding the number of persons requesting services, the number of persons receiving

services according to the type of services provided, and the need, if any, for additional services or staffing.

(g) Programs that receive funding through this chapter shall, to the extent feasible, provide services to persons with a physical disability who are victims of domestic violence. If the program cannot provide the services, then the program's staff, to the extent feasible, shall assist in referring the person with a physical disability to other programs and services in the community where assistance may be obtained.

(h) The process to determine eligibility of a domestic violence shelter-based program to receive funding pursuant to this chapter shall have as its primary purpose to ascertain that the program meets the service requirements of Section 18294. The process shall be expedient and shall include a mechanism for annual recertification.

(i) Funding obtained pursuant to this chapter is for the unrestricted use of a recipient domestic violence shelter-based program, and may be used for direct and indirect costs.

18294. Domestic violence shelter-based programs shall provide all of the following basic services to victims of domestic violence and their children:

(a) Shelter on a 24 hours a day, seven days a week basis.

(b) A 24 hours a day, seven days a week telephone hotline for crisis calls.

(c) Temporary housing and food facilities.

(d) Psychological support and peer counseling provided in accordance with Section 1037.1 of the Evidence Code.

(e) Referrals to existing services in the community.

(f) A drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services.

(g) Arrangements for schoolage children to continue their education during their stay at the domestic violence shelter-based program.

(h) Emergency transportation as feasible.

18295. In addition to the services required in Section 18294, to the extent possible, and in conjunction with already existing community services, the domestic violence shelter-based programs shall provide a method of obtaining the following services for the victims of domestic violence:

(a) Medical care.

(b) Legal assistance.

(c) Psychological support and counseling.

(d) Information regarding other available social services.

18296. The staff of the domestic violence shelter-based program shall work with social service agencies, schools, and law enforcement

agencies in an advocacy capacity for those served by the domestic violence shelter-based programs.

18297. The staff of each domestic violence shelter-based program shall attempt to achieve community support and acceptance of the program by advocating the program to community representatives and groups within the community.

Volunteers shall be trained and used to maximum capacity in the delivery of services. Staff and volunteers shall meet the training requirements set forth in Section 1037.1 of the Evidence Code.

18298. Inasmuch as domestic violence shelter-based programs are to serve a variety of cultural backgrounds, to the extent feasible, a portion of the domestic violence shelter-based program's personnel shall be bilingual. An effort shall be made to recruit formerly battered persons as staff members.

18299. A domestic violence shelter-based program shall maintain annual fiscal reports in a form to be prescribed by the Generally Accepted Accounting Principles (GAAP).

18300. An annual report shall be prepared by each domestic violence shelter-based program for submission to the county board of supervisors. The report shall be made available to the public upon request, and shall include all of the following elements:

(a) The total number of persons requesting services of the domestic violence shelter-based programs.

(b) The number of persons served in the domestic violence shelter-based program, by each type of service provided.

(c) A description of the social and economic characteristics of persons receiving services, by type of service provided.

18301. In addition to any other provisions of law concerning the confidentiality of personal information collected by domestic violence shelters, a county shall not require a domestic violence shelter-based program to provide any information not enumerated in Section 18300, or require the disclosure of any information pertaining to the confidential location of a domestic violence shelter-based program or the location or identity of any shelter resident, employee, or volunteer. A county shall not require a method of data collection or recording, or impose any other requirement, that is inconsistent with the federal Violence Against Women Act (18 U.S.C. Sec. 2261 et seq.).

18304. A county may establish a program for reducing the incidence of domestic violence in the county by establishing or funding domestic violence shelter-based programs that meet the requirements of this chapter. Geographically adjacent counties may combine their respective domestic violence shelter-based programs special funds in order to establish one or more domestic violence shelter-based programs meeting

the requirements of this chapter, in order to provide services to the clients of each county that combines its funds with another county.

18305. (a) At the time of issuance of a marriage license pursuant to Section 26840 of the Government Code, twenty-three dollars ($23) of each fee paid shall be collected by the county clerk for deposit into the county domestic violence shelter-based programs special fund. The fees collected in this special fund shall be disbursed to approved domestic violence shelter-based programs on a yearly or more frequent basis commencing July 1, 1980. The funds shall be disbursed using a request for qualification (RFQ) process.

(b) The board of supervisors shall direct the county clerk to deposit twenty-three dollars ($23) of each fee into the county domestic violence shelter-based programs special fund. The county domestic violence shelter-based programs special fund shall fund domestic violence shelter-based programs established pursuant to Section 18304. Four dollars ($4) of each twenty-three dollars ($23) deposited into the county domestic violence shelter-based programs special fund shall be used, to the extent feasible, to support or expand domestic violence shelter-based programs to target underserved areas and populations. No more than 8 percent of the funds shall be expended for the administrative costs associated with the collection and segregation of the additional marriage license fees, administration of the county domestic violence shelter-based programs special fund, monitoring of the domestic violence shelter-based programs, and meeting the other administrative requirements imposed by this chapter. Counties that do not participate in the establishing or funding of domestic violence shelter-based programs pursuant to this chapter shall be entitled to retain up to 4 percent of the funds for the administrative costs associated with the collection and segregation of the additional marriage license fees and the deposit of these fees in the county domestic violence shelter-based programs special fund.

18305.5. Notwithstanding the availability of funds in either the county domestic violence programs special fund, or the availability of community resources, the county may finance domestic violence shelter-based programs as described in Sections 18294 and 18295.

18306. The county board of supervisors shall consult with the local regional domestic violence coalition, consisting of representatives from existing domestic violence shelter-based programs, in planning for the establishment of a new domestic violence shelter-based program or for ongoing technical assistance for domestic violence shelter-based programs already in the county.

18307. (a) Notwithstanding Section 18305, a county may carry over funds deposited in a county domestic violence shelter-based programs special fund until the time that a domestic violence shelter-based program

is established to serve the needs of domestic violence victims of the county. Records of these funds shall be available for public review upon request.

(b) Funds deposited in a county domestic violence shelter-based programs special fund may be used only to finance all, or one or more, basic services specified in Section 18294. This subdivision is declaratory of existing law. These funds shall be used for shelter services, and may be used for direct or indirect costs.

18308. The Contra Costa County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 103626 of the Health and Safety Code into a special fund. The county may retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Contra Costa County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

18309. (a) The Alameda County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 26840.10 of the Government Code and Section 103627 of the Health and Safety Code into a special fund. The county may retain up to 4 percent of the funds for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Alameda County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

(b) The City Council of the City of Berkeley shall direct the local registrar to deposit fees collected pursuant to Section 103627 of the Health and Safety Code into a special fund. The city may retain up to 4 percent of the funds for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into

the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention and intervention efforts, including law enforcement, mental health, public health, substance abuse, victim advocacy, community education, and housing, in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

18309.5. (a) The Solano County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 26840.11 of the Government Code and Section 103628 of the Health and Safety Code into a special fund.

The county may retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Solano County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

(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. 5. Section 18308 of the Welfare and Institutions Code, as added by Section 4 of this act, shall become operative only if Senate Bill 968 of the 2005–06 Regular Session is enacted and becomes operative.

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.

CHAPTER 858

An act to amend Sections 18400.1, 18400.3, and 18424 of, and to amend and repeal Section 18502 of, the Health and Safety Code, relating to mobilehome parks.

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

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

SECTION 1. Section 18400.1 of the Health and Safety Code is amended to read:

18400.1. (a) In accordance with subdivision (b), the enforcement agency shall enter and inspect mobilehome parks, as required under this part, with a goal of inspecting at least 5 percent of the parks per year, to ensure enforcement of this part and the regulations adopted pursuant to this part. The enforcement agency's inspection shall include an inspection of the exterior portions of individual manufactured homes and mobilehomes in each park inspected. Any notices of violation of this part shall be issued pursuant to Chapter 3.5 (commencing with Section 18420).

(b) In developing its mobilehome park maintenance inspection program, the enforcement agency shall inspect the mobilehome parks that the enforcement agency determines have complaints that have been made to the enforcement agency regarding serious health and safety violations in the park. A single complaint of a serious health and safety violation shall not automatically trigger an inspection of the entire park unless upon investigation of that single complaint the enforcement agency determines that there is a violation and that an inspection of the entire park is necessary.

(c) This part does not allow the enforcement agency to issue a notice for a violation of existing laws or regulations that were not violations of the laws or regulations at the time the mobilehome park received its original permit to operate, or the standards governing any subsequent permit to construct, or at the time the manufactured home or mobilehome received its original installation permit, unless the enforcement agency determines that a condition of the park, manufactured home, or mobilehome endangers the life, limb, health, or safety of the public or occupants thereof.

(d) Not less than 30 days prior to the inspection of a mobilehome park under this section, the enforcement agency shall provide individual written notice of the inspection to the registered owners of the manufactured homes or mobilehomes, with a copy of the notice to the occupants thereof, if different than the registered owners, and to the owner or operator of the mobilehome park and the responsible person, as defined in Section 18603.

(e) At the sole discretion of the enforcement agency's inspector, a representative of either the park operator or the mobilehome owners may

accompany the inspector during the inspection if that request is made to the enforcement agency or the inspector requests a representative to accompany him or her. If either party requests permission to accompany the inspector or is requested by the inspector to accompany him or her, the other party shall also be given the opportunity, with reasonable notice, to accompany the inspector. Only one representative of the park owner and one representative of the mobilehome owners in the park may accompany the inspector at any one time during the inspection. If more than one representative of the mobilehome owners in the park requests permission to accompany the inspector, the enforcement agency may adopt procedures for choosing that representative.

(f) The enforcement agency shall coordinate a preinspection orientation for mobilehome owners and mobilehome park operators with the use of an audiovisual presentation furnished by the department to affected local enforcement agencies. Enforcement agencies shall furnish the audiovisual presentation to park operators and mobilehome owner representatives in each park subject to inspection not less than 30 days prior to the inspection. Additionally, it is the Legislature's intent that the department shall, where practicable, conduct live presentations, forums, and outreach programs throughout the state to orient mobilehome owners and park operators on the mobilehome park maintenance inspection program and their rights and obligations under the program.

(g) Any local enforcement agency that relinquishes enforcement authority to the department shall remit to the department fees collected pursuant to paragraph (2) of subdivision (c) of Section 18502 that have not been expended for purposes of that paragraph.

(h) 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. 1.5. Section 18400.1 of the Health and Safety Code is amended to read:

18400.1. (a) In accordance with subdivision (b), the enforcement agency shall enter and inspect mobilehome parks, as required under this part, with a goal of inspecting at least 5 percent of the parks per year, to ensure enforcement of this part and the regulations adopted pursuant to this part. The enforcement agency's inspection shall include an inspection of the exterior portions of individual manufactured homes and mobilehomes in each park inspected. Any notices of violation of this part shall be issued pursuant to Chapter 3.5 (commencing with Section 18420).

(b) In developing its mobilehome park maintenance inspection program, the enforcement agency shall inspect the mobilehome parks that the enforcement agency determines have complaints that have been

made to the enforcement agency regarding serious health and safety violations in the park. A single complaint of a serious health and safety violation shall not automatically trigger an inspection of the entire park unless upon investigation of that single complaint the enforcement agency determines that there is a violation and that an inspection of the entire park is necessary.

(c) This part does not allow the enforcement agency to issue a notice for a violation of existing laws or regulations that were not violations of the laws or regulations at the time the mobilehome park received its original permit to operate, or the standards governing any subsequent permit to construct, or at the time the manufactured home or mobilehome received its original installation permit, unless the enforcement agency determines that a condition of the park, manufactured home, or mobilehome endangers the life, limb, health, or safety of the public or occupants thereof.

(d) Not less than 30 days prior to the inspection of a mobilehome park under this section, the enforcement agency shall provide individual written notice of the inspection to the registered owners of the manufactured homes or mobilehomes, with a copy of the notice to the occupants thereof, if different than the registered owners, and to the owner or operator of the mobilehome park and the responsible person, as defined in Section 18603.

(e) At the sole discretion of the enforcement agency's inspector, a representative of either the park operator or the mobilehome owners may accompany the inspector during the inspection if that request is made to the enforcement agency or the inspector requests a representative to accompany him or her. If either party requests permission to accompany the inspector or is requested by the inspector to accompany him or her, the other party shall also be given the opportunity, with reasonable notice, to accompany the inspector. Only one representative of the park owner and one representative of the mobilehome owners in the park may accompany the inspector at any one time during the inspection. If more than one representative of the mobilehome owners in the park requests permission to accompany the inspector, the enforcement agency may adopt procedures for choosing that representative.

(f) The enforcement agency shall coordinate a preinspection orientation for mobilehome owners and mobilehome park operators with the use of an audiovisual presentation furnished by the department to affected local enforcement agencies. Enforcement agencies shall furnish the audiovisual presentation to park operators and mobilehome owner representatives in each park subject to inspection not less than 30 days prior to the inspection. Additionally, it is the Legislature's intent that the department shall, where practicable, conduct live presentations,

forums, and outreach programs throughout the state to orient mobilehome owners and park operators on the mobilehome park maintenance inspection program and their rights and obligations under the program.

(g) Any local enforcement agency that relinquishes enforcement authority to the department shall remit to the department fees collected pursuant to paragraph (2) of subdivision (c) of Section 18502 that have not been expended for purposes of that paragraph.

(h) 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. 2. Section 18400.3 of the Health and Safety Code is amended to read:

18400.3. (a) The department shall convene a task force of representatives of mobilehome owners, mobilehome park operators, local enforcement agencies that conduct mobilehome park inspections, and the Legislature, every six months, to provide input to the department on the conduct and operation of the mobilehome park maintenance inspection program. The department shall submit a report to the task force semiannually, that shall include, but not be limited to, all of the following:

(1) The amount of fees collected and expended for the inspection program.

(2) The number of parks and spaces that were inspected.

(3) The number of violations identified and progress on correcting those violations.

(4) The most common park violations and the most common homeowner violations.

(b) The Senate Committee on Rules and the Assembly Committee on Rules shall each designate a member of its respective house to be a member of the task force. Each legislative member of the task force may designate an alternate to represent him or her at task force meetings.

(c) With the input of the task force, the department may reorganize violations under this part and the regulations adopted pursuant to this part into the following two categories:

(1) Those constituting imminent hazards representing an immediate risk to life, health, and safety and requiring immediate correction.

(2) Those constituting unreasonable risk to life, health, or safety and requiring correction within 60 days.

(d) Any matter that would have constituted a violation prior to January 1, 2000, that is not categorized in accordance with subdivision (c) on or after January 1, 2000, shall be of a minor or technical nature and shall not be subject to citation or notation on the record of an inspection conducted on or after January 1, 2000.

SEC. 2.5. Section 18400.3 of the Health and Safety Code is amended to read:

18400.3. (a) The department shall convene a task force of representatives of mobilehome owners, mobilehome park operators, local enforcement agencies that conduct mobilehome park inspections, and the Legislature, every six months, to provide input to the department on the conduct and operation of the mobilehome park maintenance inspection program, including, but not limited to, frequency of inspection, program information, and recommendations for program changes. The department shall submit a report to the task force semiannually that shall include, but not be limited to, all of the following:

(1) The amount of fees collected and expended for the inspection program.

(2) The number of parks and spaces that were inspected.

(3) The number of violations identified and progress on correcting those violations.

(4) The most common park violations and the most common homeowner violations.

(b) The Senate Committee on Rules and the Assembly Committee on Rules shall each designate a member of its respective house to be a member of the task force. Each legislative member of the task force may designate an alternate to represent him or her at task force meetings.

(c) With the input of the task force, the department may reorganize violations under this part and the regulations adopted pursuant to this part into the following two categories:

(1) Those constituting imminent hazards representing an immediate risk to life, health, and safety and requiring immediate correction.

(2) Those constituting unreasonable risk to life, health, or safety and requiring correction within 60 days.

(d) Any matter that would have constituted a violation prior to January 1, 2000, that is not categorized in accordance with subdivision (c) on or after January 1, 2000, shall be of a minor or technical nature and shall not be subject to citation or notation on the record of an inspection conducted on or after January 1, 2000.

SEC. 3. Section 18424 of the Health and Safety Code is amended to read:

18424. This chapter 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. 4. Section 18502 of the Health and Safety Code, as amended by Section 22 of Chapter 434 of the Statutes of 2001, is amended to read:

18502. Fees as applicable shall be submitted for permits:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars ($10).

(c) (1) An annual operating permit fee of twenty-five dollars ($25) and an additional two dollars ($2) per lot.

(2) An additional annual fee of four dollars ($4) per lot shall be paid to the department or the local enforcement agency, as appropriate, at the time of payment of the annual operating fee. All revenues derived from this fee shall be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)) and any regulations adopted pursuant to the act.

(3) The Legislature hereby finds and declares that the health and safety of mobilehome park occupants are matters of public interest and concern and that the fee paid pursuant to paragraph (2) shall be used exclusively for the inspection of mobilehome parks and mobilehomes to ensure that the living conditions of mobilehome park occupants meet the health and safety standards of this part and the regulations adopted pursuant thereto. Therefore, notwithstanding any other provisions of law or local ordinance, rule, regulation, or initiative measure to the contrary, the holder of the permit to operate the mobilehome park shall be entitled to directly charge one-half of the per lot additional annual fee specified herein to each homeowner, as defined in Section 798.9 of the Civil Code. In that event, the holder of the permit to operate the mobilehome park shall be entitled to directly charge each homeowner for one-half of the per lot additional annual fee at the next billing for the rent and other charges immediately following the payment of the additional fee to the department or local enforcement agency.

(d) Change in name fee or transfer of ownership or possession fee of ten dollars ($10).

(e) Duplicate permit fee or amended permit fee of ten dollars ($10).

(f) 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. 5. Section 18502 of the Health and Safety Code, as amended by Section 8 of Chapter 520 of the Statutes of 1999, is repealed.

SEC. 6. Section 18502 of the Health and Safety Code, as amended by Section 9 of Chapter 520 of the Statutes of 1999, is amended to read:

18502. Fees as applicable shall be submitted for permits:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars ($10).

(c) Except for a temporary recreational vehicle park, an annual operating permit fee of twenty-five dollars ($25) and an additional two dollars ($2) per lot or two dollars ($2) per camping party for the maximum number of camping parties to be accommodated at any one time in an incidental camping area.

(d) Temporary recreational vehicle park operating permit fee of twenty-five dollars ($25), with no additional fee for the lots.

(e) Change in name fee or transfer of ownership or possession fee of ten dollars ($10).

(f) Duplicate permit fee or amended permit fee of ten dollars ($10).

(g) This section shall become operative on January 1, 2012.

SEC. 7. (a) Section 1.5 of this bill incorporates amendments to Section 18400.1 of the Health and Safety Code proposed by both this bill and SB 1231. 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 18400.1 of the Health and Safety Code, and (3) this bill is enacted after SB 1231, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 18400.3 of the Health and Safety Code proposed by both this bill and SB 1231. 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 18400.3 of the Health and Safety Code, and (3) this bill is enacted after SB 1231, in which case Section 2 of this bill shall not become operative.

CHAPTER 859

An act to add Part 6 (commencing with Section 3980) to Division 6 of the Harbors and Navigation Code, relating to harbors and ports.

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

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

SECTION 1. Part 6 (commencing with Section 3980) is added to Division 6 of the Harbors and Navigation Code, to read:

PART 6. EMERGENCY RESPONSE AND EVACUATION

3980. Local, regional, and statewide agencies responsible for emergency preparation and response activities shall work with all harbor agencies, as defined in Section 1694, within their jurisdiction, to ensure integration of the harbor agencies' respective emergency preparation, response, and evacuation procedures with the agencies' activities.

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 860

An act to add Chapter 34 (commencing with Section 22948.5) to Division 8 of the Business and Professions Code, relating to network security.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) With the increasing use of low power, unlicensed wireless technology in residences, home offices, and small offices, consumers are unknowingly allowing their personal information on their small office, home office, or residential networks to be accessed by unauthorized users who piggyback onto their network connection.

(b) Piggybacking occurs when an unauthorized user connects its client device to a wireless local area network (WLAN) access point or router in order to utilize the small office, home office, or residential network's broadband access connection to reach the Internet. The practice is becoming a serious issue for people who reside in densely populated areas or live in apartment buildings where wireless transmission waves can travel easily through walls, floors, and ceilings.

(c) Consumers are generally unaware when an unauthorized user is using their broadband network connection, as most are not sufficiently aware to determine if someone has tapped into their network. Enabled security avoids this problem by preventing all but the most determined attempts to tap into a consumer's network.

(d) In 2003, it was estimated that there were 3.9 million households with wireless access to the Internet. Currently, there are about 7.5 million households with wireless access, and that number is expected to rise to 16.2 million households by the end of the year.

(e) In December 2005, the National Cyber Security Alliance (NCSA) found that, "more than one out of four homes had a wireless network (26%) and nearly half of these homes (47%) failed to encrypt their connection, a safety precaution needed to protect wireless networks from outside intruders."

(f) There is disagreement as to whether it is legal for someone to use another person's WiFi connection to browse the Internet if the owner of the WiFi connection has not put a password on it. While Section 502 of the Penal Code prohibits the unauthorized access to computers, computer systems, and computer data, authorized use is determined by the specific circumstances of the access. There are also federal laws, including the Computer Fraud and Abuse Act (18 U.S.C. Sec. 1030 et seq.), that prohibit the intentional access to a computer without authorization.

SEC. 2. Chapter 34 (commencing with Section 22948.5) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 34. NETWORK SECURITY

22948.5. For purposes of this chapter, the following terms have the following meanings:

(a) "Federally unlicensed spectrum" means a spectrum for which the Federal Communications Commission does not issue a specific license to a user, but instead certifies equipment that may be used in a segment of spectrum designated for shared use.

(b) "Small office" means a business with 50 or fewer employees within the company.

(c) "Spectrum" means the range of frequencies over which electromagnetic signals can be sent, including radio, television, wireless Internet connectivity, and every other communication enabled by radio waves.

(d) "Wireless access point" means a device, such as a premises-based wireless network router or a wireless network bridge, that allows wireless clients to connect to it in order to create a wireless network for the purpose of connecting to an Internet service provider.

(e) "Wireless client" means a wireless device that connects to a wireless network for the purpose of connecting to an Internet service provider.

22948.6. (a) A device that includes an integrated and enabled wireless access point, such as a premises-based wireless network router

or wireless access bridge, that is for use in a small office, home office, or residential setting and that is sold as new in this state for use in a small office, home office, or residential setting shall be manufactured to comply with one of the following:

(1) Include in its software a security warning that comes up as part of the configuration process of the device. The warning shall advise the consumer how to protect his or her wireless network connection from unauthorized access. This requirement may be met by providing the consumer with instructions to protect his or her wireless network connection from unauthorized access, which may refer to a product manual, the manufacturer's Internet Web site, or a consumer protection Internet Web site that contains accurate information advising the consumer on how to protect his or her wireless network connection from unauthorized access.

(2) Have attached to the device a temporary warning sticker that must be removed by the consumer in order to allow its use. The warning shall advise the consumer how to protect his or her wireless network connection from unauthorized access. This requirement may be met by advising the consumer that his or her wireless network connection may be accessible by an unauthorized user and referring the consumer to a product manual, the manufacturer's Internet Web site, or a consumer protection Internet Web site that contains accurate information advising the consumer on how to protect his or her wireless network connection from unauthorized access.

(3) Provide other protection on the device that does all of the following:

(A) Advises the consumer that his or her wireless network connection may be accessible by an unauthorized user.

(B) Advises the consumer how to protect his or her wireless network connection from unauthorized access.

(C) Requires an affirmative action by the consumer prior to allowing use of the product.

Additional information may also be available in the product manual or on the manufacturer's Internet Web site.

(4) Provide other protection prior to allowing use of the device, that is enabled without an affirmative act by the consumer, to protect the consumer's wireless network connection from unauthorized access.

(b) This section shall only apply to devices that include an integrated and enabled wireless access point and that are used in a federally unlicensed spectrum.

(c) This section shall only apply to products that are manufactured on or after October 1, 2007.

22948.7. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.

CHAPTER 861

An act to amend Sections 927.1, 927.2, 927.3, 927.6, 927.7, 927.10, and 927.11 of the Government Code, relating to claims against the state.

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

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

SECTION 1. Section 927.1 of the Government Code is amended to read:

927.1. (a) (1) A state agency that acquires property or services pursuant to a contract with a business, including any approved change order or contract amendment, shall make payment to the person or business on the date required by the contract and as required by Section 927.4 or be subject to a late payment penalty.

(2) A state agency that awards a grant, as defined in subdivision (b) of Section 927.2, shall make payment to the person or business that is the recipient of the grant on the date required by the grant and as required by Section 927.4 or be subject to a late payment penalty.

(b) Except in the event of an emergency as provided in Section 927.11, effective January 1, 1999, the late payment penalties specified in this chapter may not be waived, altered, or limited by either of the following:

(1) A state agency acquiring property or services pursuant to a contract or that awards a grant.

(2) Any person or business contracting with a state agency to provide property or services or that is the recipient of a grant.

SEC. 2. Section 927.2 of the Government Code is amended to read:

927.2. The following definitions apply to this chapter:

(a) "Claim schedule" means a schedule of invoices prepared and submitted by a state agency to the Controller for payment to the named claimant.

(b) "Grant" means a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency. Any such grant is a contract and subject to this chapter.

(c) "Invoice" means a bill or claim that requests payment on a contract under which a state agency acquires property or services or pursuant to a signed final grant agreement.

(d) "Medi-Cal program" means the program established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) "Nonprofit public benefit corporation" means a corporation, as defined by subdivision (b) of Section 5046 of the Corporations Code, that has registered with the Department of General Services as a small business.

(f) "Nonprofit service organization" means a nonprofit entity that is organized to provide services to the public.

(g) "Reasonable cause" means a determination by a state agency that any of the following conditions are present:

(1) There is a discrepancy between the invoice or claimed amount and the provisions of the contract or grant.

(2) There is a discrepancy between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.

(3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.

(4) The invoice has been improperly executed or needs to be corrected by the claimant.

(5) The state agency making the determination or the claimant involved has been subject to a computing or accounting failure related to the Year 2000 Problem.

(h) "Received by a state agency" means the date an invoice is delivered to the state location or party specified in the contract or grant or, if a state location or party is not specified in the contract or grant, wherever otherwise specified by the state agency.

(i) "Required payment approval date" means the date on which payment is due as specified in a contract or grant or, if a specific date is not established by the contract or grant, 30 calendar days following the date upon which an undisputed invoice is received by a state agency.

(j) "Revolving fund" means a fund established pursuant to Article 5 (commencing with Section 16400) of Division 4 of Title 2.

(k) "Small business" means a business certified as a "small business" in accordance with subdivision (d) of Section 14837.

(*l*) "Small business" and "nonprofit organization" mean, in reference to providers under the Medi-Cal program, a business or organization that meets all of the following criteria:

(1) The principal office is located in California.

(2) The officers, if any, are domiciled in California.

(3) If a small business, it is independently owned and operated.

(4) The business or organization is not dominant in its field of operation.

(5) Together with any affiliates, the business or organization has gross receipts from business operations that do not exceed three million dollars ($3,000,000) per year, except that the Director of Health Services may increase this amount if the director deems that this action would be in furtherance of the intent of this chapter.

(m) "Year 2000 Problem" has the same meaning as that set forth in subdivision (a) of Section 3269 of the Civil Code.

SEC. 3. Section 927.3 of the Government Code is amended to read:

927.3. Except where payment is made directly by a state agency pursuant to Section 927.6, any undisputed invoice received by a state agency shall be submitted to the Controller for payment by the required payment approval date. A state agency may dispute an invoice submitted by a claimant for reasonable cause if the state agency notifies the claimant within 15 working days from receipt of the invoice, or delivery of property or services, whichever is later. No state employee shall dispute an invoice, on the basis of minor or technical defects, in order to circumvent or avoid the general intent or any of the specific provisions of this chapter.

SEC. 4. Section 927.6 of the Government Code is amended to read:

927.6. (a) State agencies shall pay applicable penalties, without requiring that the claimant submit an additional invoice for these amounts, whenever the state agency fails to submit a correct claim schedule to the Controller by the required payment approval date. The penalty shall cease to accrue on the date the state agency submits the claim schedule to the Controller for payment, and shall be paid for out of the state agency's funds. If the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the state agency shall pay to the claimant a penalty of one-quarter of 1 percent of the amount due, per calendar day, from the required payment date. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars ($500,000).

(b) For all other businesses, the state agency shall pay a penalty at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent, except that, if the amount of the penalty is seventy-five dollars ($75) or less, the penalty shall be waived and not paid by the state agency. On

an exception basis, state agencies may avoid payment of penalties, for failure to submit a correct claim schedule to the Controller by the required payment approval date, by paying the claimant directly, from the state agency's revolving fund within 45 calendar days following the date upon which an undisputed invoice is received by the state agency.

SEC. 5. Section 927.7 of the Government Code is amended to read:

927.7. The Controller shall pay claimants within 15 calendar days of receipt of a correct claim schedule from the state agency. If the Controller fails to make payment within 15 calendar days of receipt of the claim schedule from a state agency, the Controller shall pay applicable penalties to the claimant without requiring that the claimant submit an invoice for these amounts. Penalties shall cease to accrue on the date full payment is made, and shall be paid for out of the Controller's funds. If the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the Controller shall pay to the claimant a penalty of one-quarter of 1 percent of the amount due, per calendar day, from the 16th calendar day following receipt of the claim schedule from the state agency. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars ($500,000). For all other businesses, the Controller shall pay penalties at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent, except that, if the amount of the penalty is seventy-five dollars ($75) or less, the penalty shall be waived and not paid by the Controller.

SEC. 6. Section 927.10 of the Government Code is amended to read:

927.10. State agencies shall encourage claimants to promptly pay their subcontractors and suppliers, especially those that are small businesses. In furtherance of this policy, state agencies shall utilize expedited payment processes to enable faster payment by prime contractors to their subcontractors and suppliers, and shall promptly respond to any subcontractor or supplier inquiries regarding the status of payments made to prime contractors.

SEC. 7. Section 927.11 of the Government Code is amended to read:

927.11. (a) Except in the case of a contract with a certified small business, a nonprofit organization, or a nonprofit public benefit corporation, if an invoice from a business under a contract with the Department of Forestry and Fire Protection would become subject to late payment penalties during the annually declared fire season, as declared by the Director of Forestry and Fire Protection, then the required payment approval date shall be extended by 30 calendar days.

(b) No nonprofit public benefit corporation shall be eligible for a late payment penalty if a state agency fails to make timely payment because no Budget Act has been enacted.

(c) If the Director of Finance determines that a state agency or the Controller is unable to promptly pay an invoice as provided for by this chapter due to a major calamity, disaster, or criminal act, then otherwise applicable late payment penalty provisions contained in Section 927.7 shall be suspended except as they apply to a claimant that is either a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program. The suspension shall remain in effect until the Director of Finance determines that the suspended late payment penalty provisions of this section should be reinstated.

(d) Except as provided in subdivision (b), in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue until the time that the invoice is paid.

CHAPTER 862

An act to amend Section 22892 of the Government Code, relating to public employee health benefits.

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

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

SECTION 1. Section 22892 of the Government Code is amended to read:

22892. (a) The employer contribution of a contracting agency shall begin on the effective date of enrollment and shall be the amount fixed from time to time by resolution of the governing body of the agency. The resolution shall be filed with the board and the contribution amount shall be effective on the first day of the second month following the month in which the resolution is received by the system.

(b) (1) The employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the following:

(A) Prior to January 1, 2004, sixteen dollars ($16) per month.

(B) During calendar year 2004, thirty-two dollars and twenty cents ($32.20) per month.

(C) During calendar year 2005, forty-eight dollars and forty cents ($48.40) per month.

(D) During calendar year 2006, sixty-four dollars and sixty cents ($64.60) per month.

(E) During calendar year 2007, eighty dollars and eighty cents ($80.80) per month.

(F) During calendar year 2008, ninety-seven dollars ($97) per month.

(2) Commencing January 1, 2009, the employer contribution shall be adjusted annually by the board to reflect any change in the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar.

(c) A contracting agency may, notwithstanding the equal contribution requirement of subdivision (b), establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants is annually increased to equal an amount not less than the number of years that the contracting agency has been subject to this subdivision multiplied by 5 percent of the current monthly employer contribution for employees, until the time that the employer contribution for annuitants equals the employer contribution paid for employees. This annual adjustment to the minimum monthly employer contribution for an annuitant as authorized by this subdivision shall not exceed one hundred dollars ($100). This subdivision shall only apply to agencies that first become subject to this part on or after January 1, 1986.

CHAPTER 863

An act to amend Sections 5097.91 and 5097.98 of the Public Resources Code, relating to burial grounds.

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

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

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

(a) Private and public lands in California may contain the remains of ancestors to contemporary California Native Americans.

(b) Current state law provides a limited measure of protection for prehistoric and historic California Native American human remains and sites containing multiple human remains.

(c) California Native American human remains are not always located within the current boundaries of California Native American reservations

and rancherias, and therefore, are not covered by resource protection laws of tribal governments.

(d) It is the intent of the Legislature, in enacting this bill, to accomplish the following:

(1) Encourage landowners to consider preservation or avoidance of California Native American human remains in place, whenever feasible.

(2) Encourage culturally sensitive treatment of California Native American human remains when preservation is not feasible.

(3) Encourage meaningful discussions, including the development of agreements to establish a protocol for the dignified and culturally sensitive treatment of Native American human remains, between the most likely descendents and landowners at the earliest possible time, so that California Native American human remains can be identified and considered during development activities.

(4) Ensure that landowners and most likely descendents meaningfully communicate when California Native American human remains may be disturbed.

SEC. 2. Section 5097.91 of the Public Resources Code is amended to read:

5097.91. There is in state government a Native American Heritage Commission, consisting of nine members appointed by the Governor with the advice and consent of the Senate. For purposes of this chapter, "commission" means the Native American Heritage Commission.

SEC. 3. Section 5097.98 of the Public Resources Code is amended to read:

5097.98. (a) Whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendents may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendents shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

(b) Upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and

conferred, as prescribed in this section, with the most likely descendents regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendents all reasonable options regarding the descendents' preferences for treatment.

(1) The descendents preferences for treatment may include the following:

(A) The nondestructive removal and analysis of human remains and items associated with Native American human remains.

(B) Preservation of Native American human remains and associated items in place.

(C) Relinquishment of Native American human remains and associated items to the descendents for treatment.

(D) Other culturally appropriate treatment.

(2) The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the project area providing a basis for additional treatment measures.

(c) For the purposes of this section, "conferral" or "discuss and confer" means the meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties' cultural values, and where feasible, seeking agreement. Each party shall recognize the other's needs and concerns for confidentiality of information provided to the other.

(d) (1) Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness.

(2) Any items associated with the human remains that are placed or buried with the Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains.

(e) Whenever the commission is unable to identify a descendent, or the descendents identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendents and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, the landowner shall do one or more of the following:

(1) Record the site with the commission or the appropriate Information Center.

(2) Utilize an open-space or conservation zoning designation or easement.

(3) Record a document with the county in which the property is located.

(f) Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with the descendents is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from a review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to subdivision (e).

(g) Notwithstanding the provisions of Section 5097.9, this section, including those actions taken by the landowner or his or her authorized representative to implement this section and any action taken to implement an agreement developed pursuant to subdivision (*l*) of Section 5097.94, shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(h) Notwithstanding the provisions of Section 30244, this section, including those actions taken by the landowner or his or her authorized representative to implement this section, and any action taken to implement an agreement developed pursuant to subdivision (*l*) of Section 5097.94 shall be exempt from the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)).

CHAPTER 864

An act to add Section 2852 of the Public Utilities Code, relating to energy.

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

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

SECTION 1. Section 2852 is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

2852. (a) As used in this section, the following terms have the following meanings:

(1) "California Solar Initiative" means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the Public Utilities Commission in Decision 05-12-044 and Decision 06-01-024.

(2) "Low-income residential housing" means either of the following:

(A) Residential housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, and for which the rents of the occupants who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) A residential complex in which at least 20 percent of the total units are sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the housing units targeted for lower income households are subject to a deed restriction or affordability covenant with a public entity that ensures that the units will be available at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or at an affordable rent, as defined in Section 50053 of the Health and Safety Code for a period of at least 30 years.

(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 kilowatt, and except for a solar energy device for a nonprofit building, produces not more than five megawatts, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established by the commission or the State Energy Resources Conservation and Development Commission.

(b) In establishing the California Solar Initiative, no moneys shall be diverted from any existing programs for low-income ratepayers, or from cost-effective energy efficiency or demand response programs.

(c) (1) The commission shall ensure that not less than 10 percent of the funds for the California Solar Initiative are utilized for the installation of solar energy systems on low-income residential housing. Notwithstanding any other law, the commission may modify the monetary incentives made available pursuant to the California Solar Initiative to accommodate the limited financial resources of low-income residential housing.

(2) The commission may incorporate a revolving loan or loan guarantee program into the California Solar Initiative for low-income residential housing. All loans outstanding as of January 1, 2016, shall continue to be repaid consistent with the terms and conditions of the

program adopted and implemented by the commission pursuant to this subdivision, until repaid in full.

(3) All moneys set aside for the purpose of funding the installation of solar energy systems on low-income residential housing that are unexpended and unencumbered on January 1, 2016, and all moneys thereafter repaid pursuant to paragraph (2), except to the extent those moneys are encumbered pursuant to this section, shall be utilized to augment existing cost-effective energy efficiency measures in low-income residential housing that benefit ratepayers.

CHAPTER 865

An act to amend Sections 17609, 17610, 17610.1, and 17612 of the Education Code, to amend Sections 13181, 13183, 13185, and 13186 of the Food and Agricultural Code, to amend Section 1596.845 of, and to add Section 1596.794 to the Health and Safety Code, relating to school safety.

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

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

SECTION 1. Section 17609 of the Education Code is amended to read:

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

(a) "Antimicrobial" means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) "Crack and crevice treatment" means the application of small quantities of a pesticide consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors.

(c) "Emergency conditions" means any circumstances in which the school designee or a property owner of a property where a privately operated child day care facility is located, or the property owner's agent, deems that the immediate use of a pesticide is necessary to protect the health and safety of pupils, staff, or other persons, or the schoolsite.

(d) "School designee" means the individual identified by a schoolsite or school district to carry out the requirements of this article at the schoolsite.

(e) "Schoolsite" means any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by pupils. "Schoolsite" does not include any postsecondary educational facility attended by secondary pupils or private kindergarten, elementary, or secondary school facilities. For child day care facilities, the State Department of Social Services shall serve as the liaison to these facilities, as needed.

SEC. 1.5. Section 17610 of the Education Code is amended to read:

17610. (a) It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature to encourage appropriate training to be provided to school personnel involved in the application of a pesticide at a schoolsite.

(b) (1) A property owner of a property where a child day care facility is located, or the property owner's agent, who personally applies any pesticides on any area listed in paragraph (2) shall provide notice to the child day care facility as described in paragraph (3) at least 120 hours before the application, unless an emergency condition, as defined in Section 17609, exists.

An owner of property on which a child day care facility is located shall be subject to the requirement to provide notice pursuant to this subdivision 30 days after it has received notice from a child day care facility of its presence at the property, unless the property owner, or his or her agent received that notice pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of the Health and Safety Code prior to the effective date of this subdivision in which case the property owner will be subject to the notice requirements on and after the effective date of this subdivision.

(2) This subdivision applies when a property owner or his or her agent intend to personally apply pesticides on any of the following:

(A) Inside the rented premises on which child day care facility is located.

(B) Upon a designated child day care facility playground designated by the property owner.

(C) Upon an area designated for use by the child day care facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.

(3) The notice required by paragraph (1) shall include the following:

(A) The product name.

(B) The manufacturer's name.

(C) The active ingredients of each pesticide.

(D) The United States Environmental Protection Agency's product registration number.

(E) The intended date of application.

(F) Those areas of application listed in paragraph (2).

(G) The reason for application.

(4) A notice of pesticide application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural Code shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

SEC. 2. Section 17610.1 of the Education Code is amended to read:

17610.1. (a) (1) The use of a pesticide on a schoolsite is prohibited if that pesticide is granted a conditional registration, an interim registration, or an experimental use permit by the Department of Pesticide Regulation, or if the pesticide is subject to an experimental registration issued by the United States Environmental Protection Agency, and either of the following is applicable:

(A) The pesticide contains a new active ingredient.

(B) The pesticide is for a new use. This paragraph does not apply to a conditionally registered pesticide that is approved for other uses that has fulfilled all registration requirements that relate to human health, including, but not limited to, the completion of mandatory health effect studies pursuant to the Birth Defect Prevention Act of 1984 (Art. 14 (commencing with Sec. 13121), Ch. 2, Div. 7, F. & A.C.). The requirements of this section are not intended to impose any new labeling requirements.

(2) The use of a pesticide on a schoolsite is prohibited if the Department of Pesticide Regulation cancels or suspends registration, or requires phase out of use, of that pesticide.

(b) Vendors or manufacturers of pesticides that are prohibited for use on a schoolsite pursuant to subdivision (a) are prohibited from furnishing those pesticides to school districts or schoolsites either by sale or by gift.

(c) This section does not apply to public health pesticides or antimicrobial pesticides registered pursuant to Section 12836 of the Food and Agricultural Code.

SEC. 3. Section 17612 of the Education Code is amended to read:

17612. (a) The school designee shall annually provide to all staff and parents or guardians of pupils enrolled at a schoolsite a written notification of the name of all pesticide products expected to be applied

at the schoolsite during the upcoming year. The notification shall identify the active ingredient or ingredients in each pesticide product. The notice shall also contain the Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Section 13184 of the Food and Agricultural Code and may contain other information deemed necessary by the school designee. No other written notification of pesticide applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for recipients to register with the schoolsite if they wish to receive notification of individual pesticide applications at the schoolsite. Persons who register for notification shall be notified of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a pesticide product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours prior to application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. Nothing in this section shall require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a pesticide under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/Pesticide Treated Area" and shall include the product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, intended date and areas of application, and reason for the pesticide application. The warning sign shall be visible to all persons entering the treated area and shall be posted 24 hours prior to the application and remain posted until 72 hours after the application. In case of a pest control emergency,

the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application.

(e) Subdivisions (a) and (d) shall not apply to schools operated by the Division of Juvenile Justice. The school administrator of a school operated by the Division of Juvenile Justice shall notify the chief medical officer of that facility at least 72 hours prior to application of pesticides. The chief medical officer shall take any steps necessary to protect the health of pupils in that facility.

(f) This section and Section 17611 shall not apply to activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(g) Sections 17610 to 17612, inclusive, shall not apply to family day care homes or property owners of day care homes, as defined in Section 1596.78 of the Health and Safety Code, or their agents who personally apply any pesticides.

(h) If pesticide is applied by a property owner or his or her agent, or by a pest control operator, failure to provide notice pursuant to subdivision (b) of Section 17610 or subdivision (d) of Section 13186 of the Food and Agricultural Code shall relieve a privately operated child day care facility from the requirements of this section.

SEC. 3.5. Section 13181 of the Food and Agricultural Code is amended to read:

13181. Notwithstanding any other provision of law, for purposes of this article, "integrated pest management" means a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to preestablished guidelines and treatment thresholds. This definition shall apply only to integrated pest management at school facilities and child day care facilities.

SEC. 4. Section 13183 of the Food and Agricultural Code is amended to read:

13183. (a) The Department of Pesticide Regulation shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately-operated child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:

(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

(i) Adopting an IPM policy.

(ii) Selecting and training an IPM coordinator.

(iii) Identifying and monitoring pest populations and damage.

(iv) Establishing a community-based school district advisory committee.

(v) Developing a pest management plan for making least-hazardous pest control choices.

(vi) Contracting for integrated pest management services.

(vii) Training and licensing opportunities.

(viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.

(xi) Recordkeeping and program review.

(2) Make the model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.

(b) The department shall promote and facilitate the voluntary adoption of integrated pest management programs at child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, through the following:

(1) Modifying the department's existing integrated pest management program for schoolsites as described in subdivision (a) of Section 13183 for the child day care setting.

(2) Creating or modifying existing educational and informational materials on integrated pest management for the child day care setting.

(3) Making the materials available to child day care facilities and establishing a process for systematically updating them.

SEC. 5. Section 13185 of the Food and Agricultural Code is amended to read:

13185. (a) The department shall establish an integrated pest management training program in order to facilitate the adoption of a model IPM program and least-hazardous pest control practices by schoolsites. In establishing the IPM training program, the department shall do all of the following:

(1) Adopt a "train-the-trainer" approach, whenever feasible, to rapidly and broadly disseminate program information.

(2) Develop curricula and promote ongoing training efforts in cooperation with the University of California and the California State University.

(3) Prioritize outreach on a regional basis first and then to school districts. For outreach to child day care facilities, the department shall participate in existing trainings that provide opportunities for disseminating program information broadly on a regional basis.

(b) Nothing in this article shall preclude a schoolsite from adopting stricter pesticide use policies.

SEC. 6. Section 13186 of the Food and Agricultural Code is amended to read:

13186. (a) The Legislature finds and declares that the Department of Pesticide Regulation, pursuant to Section 12979 of the Food and Agricultural Code and Sections 6624 and 6627 of Title 3 of the California Code of Regulations, requires persons engaged for hire in the business of pest control to maintain records of pesticide use and report a summary of that pesticide use to the county agricultural commissioner or director. The Legislature further finds and declares that it is in the interest of the state, in implementing a school integrated pest management program pursuant to this article, to collect specified information on the use of pesticides at schoolsites.

(b) The Department of Pesticide Regulation shall prepare a school pesticide use form to be used by licensed and certified pest control operators when they apply any pesticides at a schoolsite. The form shall include, for each application at a schoolsite, the name and address of the schoolsite, date and location of application, pesticide product name, and the quantity of pesticide used. Nothing in this section shall change any existing applicable pesticide use reporting requirements.

(c) Persons who are required to submit pesticide use records to the county agricultural commissioner or director shall complete and submit to the director the school pesticide use forms established pursuant to this section. The forms shall be submitted annually and may be submitted more often at the discretion of the pest control operator maintaining the forms. Child day care facilities, excluding family day care homes, as

defined in Section 1596.78 of the Health and Safety Code, which are subject to the Healthy Schools Act of 2000, shall inform contractors hired to apply pesticides at the schoolsite that the facility must comply with the Healthy Schools Act of 2000.

(d) Any person who is hired to apply pesticides at a child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, shall provide that facility's school designee with all of the following information at least 120 hours in advance of any pesticide application, except in the case of an emergency condition, as defined in Section 17609 of the Education Code:

(1) The pesticide product name.

(2) The pesticide manufacturer's name.

(3) The United States Environmental Protection Agency's product registration number.

(4) The active ingredient or ingredients in the pesticide product.

(5) The areas of application.

(6) The intended date of application.

(7) The reason for the pesticide application.

(e) If a person hired to apply pesticides contracts directly with the property owner or his or her agent rather than directly with the child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, the property owner or his or her agent must notify the contractor that a child day care facility is being operated on the property at which the pesticides are to be applied to enable the contractor to comply with subdivision (d).

SEC. 7. Section 1596.794 is added to the Health and Safety Code, to read:

1596.794. The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, inclusive, of the Education Code.

SEC. 8. Section 1596.845 of the Health and Safety Code is amended to read:

1596.845. Prior to the issuance of a new license or special permit pursuant to this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) the applicant shall attend an orientation given by the department. The orientation given by the department shall outline all of the following:

(a) The rules and regulations of the department applicable to child day care facilities.

(b) The scope of operation of a child day care facility.

(c) The responsibility entailed in operating a child day care facility.

(d) Information about the Healthy Schools Act of 2000 and integrated pest management practices.

CHAPTER 866

An act to amend Section 54999.1 of, to add Section 54999.7 to, and to add and repeal Section 54999.8 of, the Government Code, relating to local government.

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

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

SECTION 1. Section 54999.1 of the Government Code is amended to read:

54999.1. For purposes of this chapter:

(a) "Actual construction costs" includes the cost of all activities necessary or incidental to the construction of a public utility facility, such as financing, planning, designing, acquisition of property or interests in property, construction, reconstruction, and rehabilitation.

(b) "Capacity charge" means a one-time charge to recover the costs of public utility facilities necessary to establish new or expand existing public utility service to a public agency.

(c) (1) "Capital facilities fee" means a nondiscriminatory connection fee, a nondiscriminatory capacity charge, or both. "Capital facilities fee" does not include any other rate, charge, or surcharge, or any capital component thereof.

(2) For purposes of this subdivision, "nondiscriminatory" means that the fee does not exceed an amount determined on the basis of the same objective criteria and methodology applicable to comparable nonpublic users, and is not in excess of the proportionate share of the cost of the public utility facilities of benefit to the person or property being charged, based upon the proportionate share of use of those facilities.

(d) "Connection fee" means a fee to recover the costs of the physical facilities necessary to directly connect a public agency facility to a public utility service provided by a public agency, including, but not limited to, meters, meter boxes, and pipelines to make the connection, and the actual cost of labor and materials for the installation of those facilities.

(e) "Public agency" means the United States or any of its agencies, the state or any of its agencies, the California State University, the Regents of the University of California, a county, a county office of

education, a city, a school district, community college district, or any other district, a public authority, or any other political subdivision or public corporation of this state.

(f) "Public school" means the California State University, the Regents of the University of California, a county office of education, a school district, or a community college district.

(g) "Public utility facility" means a facility for the provision of water, light, heat, communications, power, or garbage service, for flood control, drainage or sanitary purposes, or sewage collection, treatment, or disposal.

(h) "Public utility service" means service for water, light, heat, communications, power, or garbage, or for flood control, drainage or sanitary purposes, or sewage collection, treatment, or disposal, provided by a public agency.

(i) "State agency" or "state" means any state office, department, division, bureau, board, or commission.

SEC. 2. Section 54999.7 is added to the Government Code, to read:

54999.7. (a) Any public agency providing public utility service may impose a fee, including a rate, charge, or surcharge, for any product, commodity, or service provided to a public agency, and any public agency receiving service from a public agency providing public utility service shall pay that fee so imposed. Such a fee for public utility service, other than electricity or gas, shall not exceed the reasonable cost of providing the public utility service.

(b) A fee, including a rate, charge, or surcharge, for any product, commodity, or service provided to a public agency, shall be determined on the basis of the same objective criteria and methodology applicable to comparable nonpublic users, based on customer classes established in consideration of service characteristics, demand patterns, and other relevant factors.

(c) A public agency providing public utility service shall complete a cost of service study at least once every 10 years that addresses the cost of providing public utility service to public schools. The study shall describe the methodology for the determination of cost responsibility, which may be identified by reference to appropriate industry ratemaking principles, including guidance associated with designing and developing water rates and charges issued by the American Water Works Association or guidance associated with other comparable industry principles recognized by public agencies providing public utility service.

(d) In addition to other notices required pursuant to state law or local ordinance or rule, whenever a public agency that provides public utility service holds a public meeting to establish or increase any rate, charge, surcharge, or fee, that public agency shall provide a written notice of

the meeting not less than 60 days prior to the date of the public meeting to any public agency that has filed a written request for such a notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests.

(e) Upon request of any affected public agency made not less than 30 days prior to the date of the public meeting to establish or increase any rate, charge, surcharge, or fee, a public agency that provides public utility service shall provide the affected public agency with the data and proposed methodology for establishing or increasing the rate, charge, surcharge, or fee. The data and proposed methodology may be provided during a meeting of staff or other representatives of each agency.

(f) This section shall not apply to impositions or increases of capital facilities fees subject to Section 54999.3.

SEC. 3. Section 54999.8 is added to the Government Code, to read:

54999.8. (a) Any judicial action or proceeding by a public agency that seeks a refund of a fee, rate, charge, or surcharge, or increase in any of those costs, or that challenges the validity of a fee, rate, charge, or surcharge, or increase, imposed on or after January 1, 2007, pursuant to this chapter, shall be commenced within 120 days of the effective date of the imposition of the fee, rate, charge, or surcharge, or increase.

(b) Any action by a public agency under this chapter to validate an ordinance, resolution, or motion imposing or increasing a fee, rate, charge, or surcharge shall be in accordance with Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, no action by a public agency imposing or increasing the fee, rate, charge, or surcharge shall be commenced any earlier than 120 days from the effective date of the imposition of the fee, rate, charge, surcharge, or increase.

(c) In any judicial action or proceeding brought pursuant to this section, the public agency imposing or increasing the fee, rate, charge, or surcharge shall have the burden of showing that it was established pursuant to Section 54999.3 or Section 54999.7.

(d) 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. 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.

SEC. 5. The amendments made to Section 54999.1 of, and the addition of Sections 54999.7 and 54999.8 to, the Government Code by

this act are not intended to affect any litigation involving public utility services provided prior to January 1, 2007, brought prior to or subsequent to that date. Nothing in the legislative history of the amendments or additions made by this act should be construed as any indication of the meaning of the law as it existed prior to the effective date of the amendments and additions made by this act.

CHAPTER 867

An act to add Section 6254.23 to the Government Code, and to add Section 7662 to, and to add Article 7.3 (commencing with Section 7665) to Chapter 1 of Division 1 of, the Public Utilities Code, relating to railroads.

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

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

SECTION 1. Section 6254.23 is added to the Government Code, to read:

6254.23. Nothing in this chapter or any other provision of law shall require the disclosure of a risk assessment or railroad infrastructure protection program filed with the Public Utilities Commission, the Director of Homeland Security, and the Office of Emergency Services pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the Public Utilities Code.

SEC. 2. Section 7662 is added to the Public Utilities Code, to read:

7662. (a) (1) A railroad corporation shall place appropriate signage to notify an engineer of an approaching grade crossing, consistent with federal law.

(2) Whistle post signs shall be deemed to satisfy this requirement.

(b) (1) Whenever a railroad issues written or verbal instructions to employees that may restrict or stop train movements because of track conditions, structures, persons, or equipment working, appropriate flags that are readily visible and easily recognizable to the crews on both passenger and freight trains shall be displayed as quickly as practicable. Yellow flags shall be used for temporary speed restrictions, consistent with paragraphs (2) and (3). Yellow-red flags shall be used, consistent with paragraphs (4) and (5), when a train may be required to stop.

(2) Yellow flags shall be used to warn trains to restrict movement because of track conditions or structures. Except as provided in paragraph

(3), a yellow flag shall be displayed two miles before the restricted area in order to ensure that train movement is restricted at the proper location.

(3) When the restricted area is close to a terminal, junction, or another area, the yellow flag may be displayed less than two miles before the restricted area. This information shall be included in the written instructions to employees issued pursuant to paragraph (1).

(4) Yellow-red flags shall be used to warn trains to be prepared to stop because of men or equipment working. A yellow-red flag shall be displayed two miles before the restricted area in order to ensure that the train is prepared to stop at the proper location.

(5) When the restricted area is close to a terminal, junction, or other area, the yellow-red flag may be displayed less than two miles before the restricted area. This information shall be included in the written instructions to employees issued pursuant to paragraph (1).

(6) Flags shall be displayed only on the track affected and shall be displayed to the right side of the track as viewed from the approaching train. The flags shall be displayed to protect all possible access to the restricted area.

(c) A railroad corporation shall provide milepost markers to train crews at accurate one-mile intervals. The markers shall be readily visible to the locomotive engineer within the locomotive cab, and shall be kept in good repair and replaced when necessary.

(d) A railroad corporation shall place whistle signs to the right of the main track in the direction of approach, exactly one-quarter mile from the entrance to any grade crossing as a point of reference for locomotive engineers who blow the whistle and ring the bell for these grade crossings as a warning to the public. The signs, which shall consist of an "X" or "W" or other identifiable mark or symbol on a square plate mounted on a post, shall be readily visible to a locomotive engineer within the locomotive cab, shall be kept in good repair, and shall be replaced when necessary.

(e) A railroad corporation shall place permanent speed signs to the right of the track in the direction of approach, two miles in advance of the point where the speed is either increased or decreased for both passenger and freight trains. The signs shall be readily visible to a locomotive engineer within the locomotive cab, shall be kept in good repair, and shall be replaced when necessary.

(f) A railroad corporation shall notify the commission and the collective bargaining representative of any affected employee of any new utilization of remote control locomotives in the state, on or after January 1, 2007.

(g) A railroad corporation shall provide immediate notification to the Office of Emergency Services of accidents, incidents, and other events,

concurrent with those provided to the Federal Railroad Administration's National Response Center, as required by Part 225.9 of Title 49 of the Code of Federal Regulations.

SEC. 3. Article 7.3 (commencing with Section 7665) is added to Chapter 1 of Division 4 of the Public Utilities Code, to read:

Article 7.3. Local Community Rail Security Act of 2006

7665. (a) This article shall be known, and may be cited, as the Local Community Rail Security Act of 2006.

(b) The Legislature declares that the purpose of this act is to provide for the security and safety of local communities and local community facilities, to protect local communities from transportation practices that fail to secure rail facilities and equipment from the threat of terrorism, and to ensure proper communication between the owners and operators of rail facilities and equipment with local and state first responders.

7665.2. By July 1, 2007, every operator of rail facilities shall provide a risk assessment to the commission, the Director of Homeland Security, and the Office of Emergency Services for each rail facility in the state that is under its ownership, operation, or control. The risk assessment shall, for each rail facility, describe all of the following:

(a) The location and functions of the rail facility.

(b) All types of cargo that are moved through, or stored at, the rail facility.

(c) Any hazardous cargo that is moved through, or stored at, the rail facility.

(d) The frequency that any hazardous cargo is moved through, or stored at, the rail facility.

(e) A description of the practices of the rail operator to prevent acts of sabotage, terrorism or other crimes on the rail facility.

(f) All training programs that the rail operator requires for its employees at the rail facility.

(g) The emergency response procedures of the rail operator to deal with acts of sabotage, terrorism, or other crimes at the rail facility.

(h) The procedures of the rail operator to communicate with local and state law enforcement personnel, emergency personnel, transportation officials, and other first responders, in the event of acts of sabotage, terrorism, or other crimes at the rail facility.

7665.3. The Office of Emergency Services may provide the risk assessment provided pursuant to Section 7665.2 to other law enforcement or emergency personnel.

7665.4. (a) By January 1, 2008, every rail operator shall develop and implement an infrastructure protection program to protect rail infrastructure in the state from acts of sabotage, terrorism, or other crimes.

(b) (1) The infrastructure protection program shall address the security of all critical infrastructure.

(2) The infrastructure protection program shall provide

training to all employees of the rail operator performing work at a rail facility on how to recognize, prevent, and respond to acts of sabotage, terrorism, or other crimes.

(c) (1) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall receive training equivalent to that received by employees of the rail operator pursuant to paragraph (2) of subdivision (b), within a reasonable period of time. The commission, in consultation with the Director of Homeland Security, may adopt reasonable rules or orders to implement this requirement.

(2) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall undergo an equivalent evaluation of their background, skills, and fitness as the rail operator implements for its employees pursuant to its infrastructure protection plan. The commission, in consultation with the Director of Homeland Security, may adopt reasonable rules or orders to implement this requirement.

(d) Each rail operator in the state shall provide to the commission, the Director of Homeland Security, and the Office of Emergency Services a copy of its infrastructure protection program. Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the commission, the Director of Homeland Security, and the Office of Emergency Services shall keep this information confidential.

(e) The infrastructure protection program shall be updated by the rail operator at least once every year, and the updated plan shall be submitted to the commission, the Director of Homeland Security, and the Office of Emergency Services.

(f) The commission, in consultation with the Office of Emergency Services, shall review the infrastructure protection program submitted by a rail operator, may conduct inspections to facilitate the review, and may order a rail operator to improve, modify, or change its program to comply with the requirements of this article.

(g) The commission may fine a rail operator for failure to comply with the requirements of this section or an order of the commission pursuant to this section.

7665.6. Every rail operator shall, for all facilities that handle hazardous cargo, do all the following:

(a) Secure all facilities that handle or store hazardous materials by providing adequate security personnel.

(b) Store hazardous materials only in secure facilities designed for storage, which shall not include mainline, branch, industrial, or passing tracks not so designed or retrofitted.

(c) Shall not leave locomotive equipment running while unattended, or leave any unattended locomotive equipment unlocked.

(d) Shall ensure that the cabs of occupied locomotives are secured from hijacking, sabotage, or terrorism.

(e) Shall not use remote control locomotives to move hazardous materials over a public crossing unless the remote control operator is able to maintain line-of-sight visibility of the public crossing and visually ensure that all automatic highway-rail grade crossing warning devices are functioning as intended, and it is safe for the train movement to enter the public crossing.

(f) Shall secure remote control devices to prevent access to those devices by unauthorized personnel.

7665.8. Every rail operator shall provide communications capability that can accomplish all of the following:

(a) Timely alerting local and state law enforcement personnel, emergency personnel, transportation officials and other first responders in the event of sabotage, terrorism, or other crimes.

(b) Timely provide bridge tenders on moveable bridges the ability to alert local and state law enforcement personnel, emergency personnel, transportation officials and other first responders in the event of sabotage, terrorism, or other crimes.

(c) Notify rail workers of the local or national threat level for the rail industry.

7666. No rail operator or any other person covered by this article may act to punish an employee who reports a violation of this article. An employee against whom a punitive action is taken may seek civil damages of up to one million dollars ($1,000,000) from any employer that acts to punish an employee who reports a violation of this article, in addition to any other remedies the court deems appropriate.

7667. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

CHAPTER 868

An act to amend Section 19852 of, and to add Section 19852.2 to, the Business and Professions Code, and to amend Section 12712 of the Government Code, relating to gaming.

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

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

SECTION 1. Section 19852 of the Business and Professions Code is amended to read:

19852. Except as provided in Section 19852.2, an owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for and obtains a state gambling license:

(a) If the owner is a corporation, then each officer, director, and shareholder, other than a holding or intermediary company, of the owner. The foregoing does not apply to an owner that is either a publicly traded racing association or a qualified racing association.

(b) If the owner is a publicly traded racing association, then each officer, director, and owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(c) If the owner is a qualified racing association, then each officer, director, and shareholder, other than an institutional investor, of the subsidiary corporation and any owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(d) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(e) If the owner is a trust, then the trustee and, in the discretion of the commission, any beneficiary and the trustor of the trust.

(f) If the owner is a business organization other than a corporation, partnership, or trust, then all those persons as the commission may require, consistent with this chapter.

(g) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(h) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the

commission, has the power to exercise a significant influence over the gambling operation.

SEC. 2. Section 19852.2 is added to the Business and Professions Code, to read:

19852.2. (a) Notwithstanding Section 19852 or any other provision of law to the contrary, and solely for the purpose of the licensure of a card club located on the grounds of a racetrack that is owned by a limited partnership that also owns the racetrack, the commission, in its discretion, may exempt from the licensing requirements of this chapter:

(1) The limited partners in a limited partnership that holds interest in a holding company if all of the following criteria are met:

(A) The limited partners of the limited partnership in the aggregate directly hold at least 95 percent of the interest in the holding company.

(B) The limited partner is one of the following:

(i) An "institutional investor" as defined in subdivision (s) of Section 19805.

(ii) An "employee benefit plan" as defined in Section 1002(3) of Title 29 of the United States Code.

(iii) An investment company that manages a state university endowment.

(2) Other limited partners in a limited partnership described in paragraph (1), if the partners do not number more than five and each partner indirectly owns one percent or less of the shares of the interest in the holding company.

(3) A limited partner in a limited partnership that holds in the aggregate less than 5 percent of the interest in a holding company.

(b) Nothing in this section shall be construed to limit the licensure requirements for a general partner of a limited partnership or a limited partner that is not specifically described in this section.

SEC. 3. Section 12712 of the Government Code is amended to read:

12712. As used in this chapter:

(a) "County Tribal Casino Account" means an account consisting of all moneys paid by tribes of that county into the Indian Gaming Special Distribution Fund after deduction of the amounts appropriated pursuant to the priorities specified in Section 12012.85.

(b) "Individual Tribal Casino Accounts" means an account for each individual tribe that has paid money into the Indian Gaming Special Distribution Fund. The individual tribal casino account shall be funded in proportion to the amount that the individual tribe has paid into the Indian Gaming Special Distribution Fund.

(c) "Local jurisdiction" means any city, county, or special district.

CHAPTER 869

An act to amend Sections 8899.12, 8899.14, 65302, and 65302.5 of the Government Code, to amend Section 10295.5 of, and to repeal and add Section 20676 of, the Public Contract Code, and to amend Sections 603.1, 607, 611, 661, 2003, 2207, 2692, 2705.5, 2714, 2716, 2728, 2761, 2774, 2796.5, and 30404 of, to add Section 2772.7 to, and to repeal and add Section 2773.2 of, the Public Resources Code, relating to mining.

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

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

SECTION 1. Section 8899.12 of the Government Code is amended to read:

8899.12. (a) Participants in the EREC shall be selected by the Seismic Safety Commission in collaboration with the California Council on Science and Technology and the California Geological Survey in the Department of Conservation. EREC participants shall include, but not be limited to, representatives from all of the following:

(1) Research universities.

(2) Major professional organizations.

(3) State agencies.

(4) Federal agencies.

(5) Private industry.

(b) The organization and management of the EREC shall be the responsibility of the Seismic Safety Commission, in collaboration with the California Council on Science and Technology and the California Geological Survey.

SEC. 2. Section 8899.14 of the Government Code is amended to read:

8899.14. The Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the California Geological Survey, and the Office of Competitive Technology, shall provide structure for the EREC by submitting a proposed five-year plan for review and consideration. Included with this submission shall be an appropriate schedule and structure for reviewing and critiquing existing and emerging technologies for earthquake research. The EREC shall review, critique, and revise the proposed plan submitted by the Seismic Safety Commission, as appropriate to the needs of California. The EREC shall present its findings to the Seismic Safety Commission.

SEC. 3. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies that have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county. The conservation element may also cover the following:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(1) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

(2) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains

to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 4. Section 65302.5 of the Government Code is amended to read:

65302.5. (a) At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the California Geological Survey of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

(1) The draft element of or draft amendment to the safety element of a county or a city's general plan shall be submitted to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county at least 90 days prior to either of the following:

(A) The adoption or amendment to the safety element of its general plan for each county that contains state responsibility areas.

(B) The adoption or amendment to the safety element of its general plan for each city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (b) of Section 51177.

(2) A county that contains state responsibility areas and a city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (b) of Section 51177 shall submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county in accordance with the following dates, as specified, unless the local government submitted the element within five years prior to that date:

(A) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 2010.

(B) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2011.

(C) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2012.

(D) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2013.

(E) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2014.

(F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element. The State Board of Forestry and Fire Protection and local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wildland fires.

(B) Methods and strategies for wildland fire risk reduction and prevention within state responsibility areas and very high hazard severity zones.

(b) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or city council shall communicate in writing to the State Board of Forestry and Fire Protection or to the local agency, its reasons for not accepting the recommendations.

(c) If the State Board of Forestry and Fire Protection or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration at the next time it considers amendments pursuant to paragraph (1) of subdivision (a).

SEC. 5. Section 10295.5 of the Public Contract Code is amended to read:

10295.5. (a) Notwithstanding any other provision of law, no state agency shall acquire or utilize sand, gravel, aggregates, or other minerals produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code), unless the operation is identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code as having either of the following:

(1) An approved reclamation plan and financial assurances covering the affected surface mining operation.

(2) An appeal pending before the State Mining and Geology Board pursuant to subdivision (e) of Section 2770 of the Public Resources Code with respect to the reclamation plan or financial assurances.

(b) Notwithstanding any other provision of law, no state agency shall contract with a person who is not a surface mining operator, but who is supplying or utilizing sand, gravel, aggregates, or other minerals, to perform work for, or supply materials to, a state agency, unless the operation is identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code as having either of the following:

(1) An approved reclamation plan and financial assurances covering the affected surface mining operation.

(2) An appeal pending before the State Mining and Geology Board pursuant to subdivision (e) of Section 2770 of the Public Resources Code with respect to the reclamation plan or financial assurances.

(c) For purposes of this section, "minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

(d) The requirements of this section shall apply to mining operations on federal lands or Indian lands that are subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code) pursuant to a memorandum of understanding between the Department of Conservation and the federal agency having jurisdiction over the lands.

SEC. 6. Section 20676 of the Public Contract Code is repealed.

SEC. 7. Section 20676 is added to the Public Contract Code, to read:

20676. A contractor or a mining operator shall not sell any sand, gravel, or other minerals, as defined in subdivision (c) of Section 10295.5, to a local agency, unless the operation is not subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section

2710) of Division 2 of the Public Resources Code), or unless the contractor or mining operator certifies, under penalty of perjury, that the minerals are from a mining operation identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code.

SEC. 8. Section 603.1 of the Public Resources Code is amended to read:

603.1. The director is hereby vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Geologist as Chief of the California Geological Survey of the department. The director may appoint an assistant or deputy director to exercise any powers and duties in the administration of the California Geological Survey that the director may delegate to that person.

SEC. 9. Section 607 of the Public Resources Code is amended to read:

607. The work of the department shall be divided into at least the following:

(a) California Geological Survey.

(b) Division of Oil, Gas, and Geothermal Resources.

(c) Division of Land Resource Protection.

(d) Division of Recycling.

(e) Office of Mine Reclamation.

SEC. 10. Section 611 of the Public Resources Code is amended to read:

611. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the department, director, the State Geologist, the State Mining and Geology Board, or the California Geological Survey 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. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 11. Section 661 of the Public Resources Code is amended to read:

661. As used in this article, "board" means the State Mining and Geology Board and "division" means the California Geological Survey of the department.

SEC. 12. Section 2003 of the Public Resources Code is amended to read:

2003. "Division," in reference to the government of this state, means the California Geological Survey in the Department of Conservation.

Wherever any reference is made to the Division of Mines and Geology in the Department of Conservation pertaining to a duty, power, purpose, responsibility, or jurisdiction of that division, it shall be deemed to be a reference to, and to mean a duty, power, purpose, responsibility, or jurisdiction of, the California Geological Survey of the Department of Conservation.

SEC. 13. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the director annually, not later than a date established by the director, upon forms approved by the board from time to time, a report that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7 ½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the board, a report that provides all of the information specified in paragraphs (1) to (16), inclusive, of subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan, in order that the reclamation can be carried out by the entity or company, in accordance with the provisions of the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Bureau of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised reports to the director and the lead agency. Any person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees

from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed four thousand dollars ($4,000) annually and may not be less than one hundred dollars ($100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–06 fiscal year and annually thereafter.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of three million five hundred thousand dollars ($3,500,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–06 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, classification and designation

of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars ($5) per ounce of gold and ten cents ($0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars ($100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves,

or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and is not subject to that chapter.

SEC. 14. Section 2692 of the Public Resources Code is amended to read:

2692. (a) It is the intent of the Legislature to provide for a statewide seismic hazard mapping and technical advisory program to assist cities and counties in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction, landslides, or other ground failure and other seismic hazards caused by earthquakes.

(b) It is further the intent of the Legislature that maps and accompanying information provided pursuant to this chapter be made available to local governments for planning and development purposes.

(c) It is further the intent of the Legislature that the California Geological Survey, in implementing this chapter, shall, to the extent possible, coordinate its activities with, and use existing information generated from, the earthquake fault zones mapping program pursuant to Chapter 7.5 (commencing with Section 2621), and the inundation maps prepared pursuant to Section 8589.5 of the Government Code.

SEC. 15. Section 2705.5 of the Public Resources Code is amended to read:

2705.5. The California Geological Survey shall advise counties and cities as to that portion of the total fees allocated to the Strong-Motion

Instrumentation and Seismic Hazards Mapping Fund, so that this information may be provided to building permit applicants.

SEC. 16. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or the immediate excavation or grading of lands affected by a flood or natural disaster for the purpose of restoring those lands to their prior condition.

(b) Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project and that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location, and the total surface area disturbed is less than one acre.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by Section 2001, determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in

connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

SEC. 17. Section 2716 of the Public Resources Code is amended to read:

2716. (a) Any interested person may commence an action on his or her own behalf against the board, the lead agency, the State Geologist, or the director for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board, the State Geologist, or the director to carry out any duty imposed upon them pursuant to this chapter.

(b) For purposes of this section, "person" means an individual, firm, association, corporation, organization, or partnership, or a city, county, district, or the state or any department or agency of the state.

SEC. 18. Section 2728 of the Public Resources Code is amended to read:

2728. "Lead agency" means the city, county, San Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a reclamation plan pursuant to this chapter.

SEC. 19. Section 2761 of the Public Resources Code is amended to read:

2761. (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state that are urbanized or are subject to urban expansion or other irreversible land uses that would preclude mineral extraction:

(1) Standard metropolitan statistical areas and other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) An area that contains mineral deposits and is not of regional or statewide significance.

(2) An area that contains mineral deposits and is of regional or statewide significance.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

(c) The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.

(d) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies.

SEC. 20. Section 2772.7 is added to the Public Resources Code, to read:

2772.7. A lead agency, upon approval of a reclamation plan or an amendment to a reclamation plan, shall record a "Notice of Reclamation Plan Approval" with the county recorder. The notice shall read: "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the ____, a copy of which is on file with the ____."

SEC. 21. Section 2773.2 of the Public Resources Code is repealed.

SEC. 22. Section 2773.2 is added to the Public Resources Code, to read:

2773.2. The mineral owner and owner of the surface estate, if legally entitled to do so, shall allow access to the property on which the mining operation is located to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan and expending those financial assurances for reclamation, in order that reclamation may be carried out by the

governmental agency or company, in accordance with the reclamation plan.

SEC. 23. Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in accordance with state policy that establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause an inspection to be conducted by a state licensed geologist, state licensed civil engineer, state licensed landscape architect, or state licensed forester, who is experienced in land reclamation and who has not been employed by a surface mining operation within the jurisdiction of the lead agency in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board that shall include the professional licensing and disciplinary information of the person who conducted the inspection. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the director within 30 days of the date of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection

report prepared by the geologist, civil engineer, landscape architect, or forester, who conducted the inspection.

(c) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the director for review. All documentation for that submission shall be submitted to the director at one time. When the lead agency submits a reclamation plan or plan amendments to the director for review, the lead agency shall also submit to the director, for use in reviewing the reclamation plan or plan amendments, information from any related document prepared, adopted, or certified pursuant to Division 13 (commencing with Section 21000), and shall submit any other pertinent information. The lead agency shall certify to the director that the reclamation plan is in compliance with the applicable requirements of this chapter and Article 9 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and the lead agency's mining ordinance in effect at the time that the reclamation plan is submitted to the director for review.

(d) (1) The director shall have 30 days from the date of receipt of a reclamation plan or plan amendments submitted pursuant to subdivision (c), and 45 days from the date of receipt of financial assurances submitted pursuant to subdivision (c), to prepare written comments, if the director so chooses. The lead agency shall evaluate any written comments received from the director relating to the reclamation plan, plan amendments, or financial assurances within a reasonable amount of time.

(2) The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised by the director's comments, and submit the lead agency's proposed response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's response to the director's comments shall describe whether the lead agency proposes to adopt the director's comments to the reclamation plan, plan amendment, or financial assurance. If the lead agency does not propose to adopt the director's comments, the lead agency shall specify, in detail, why the lead agency proposes not to adopt the comments. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of the hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no hearing is required by this chapter, or by the local ordinance, of other state law, then the lead agency shall provide 30 days'

notice to the director that it intends to approve the reclamation plan, plan amendment, or financial assurance. The lead agency shall send to the director its final response to the director's comments within 30 days following its approval of the reclamation plan, plan amendment, or financial assurance during which period the department retains all powers, duties, and authorities of this chapter.

(3) To the extent that there is a conflict between the comments of a trustee agency or a responsible agency that are based on the agency's statutory or regulatory authority and the comments of other commenting agencies which are received by the lead agency pursuant to Division 13 (commencing with Section 21000) regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(e) Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.

SEC. 24. Section 2796.5 of the Public Resources Code is amended to read:

2796.5. (a) The director, with the consultation of appropriate state and local agencies, may remediate or complete reclamation of abandoned mined lands that meet all of the following requirements:

(1) No operator having both the responsibility and the financial ability to remediate or reclaim the mined lands can be found within the state.

(2) No reclamation plan is in effect for the mined lands.

(3) No financial assurances exist for the mined lands.

(4) The mined lands are abandoned, as that term is used in paragraph (6) of subdivision (h) of Section 2770.

(b) In deciding whether to act pursuant to subdivision (a), the director shall consider whether the action would accomplish one of the following:

(1) The protection of the public health and safety or the environment from the adverse effects of past surface mining operations.

(2) The protection of property that is in danger as a result of past surface mining operations.

(3) The restoration of land and water resources previously degraded by the adverse effects of surface mining operations.

(c) The director may also consider the potential liability to the state in deciding whether to act under this section. Neither the director, the department, nor the state, or its appointees, employees, or agents, in conducting remediation or reclamation under this section, shall be liable under applicable state law, and it is the intent of the Legislature that those persons and entities not be liable for those actions under federal laws.

(d) (1) The remediation or reclamation work performed under this section includes, but is not limited to, supervision of remediation or reclamation activities that, in the director's judgment, is required by the magnitude of the endeavor or the urgency for prompt action needed to protect the public health and safety or the environment. The action may be taken in default of, or in addition to, remedial work by any other person or governmental agency, and regardless of whether injunctive relief is being sought.

(2) The director may authorize the work to be performed through department staff, with the cooperation of any other governmental agency, or through contracts, and may use rented tools or equipment, either with or without operators furnished.

(3) In cases of emergency where quick action is necessary, notwithstanding any other provision of law, the director may enter into oral contracts for the work, and the contracts, whether written or oral, may include provisions for the rental of tools or equipment and in addition the furnishing of labor and materials necessary to accomplish the work. These emergency contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(4) The director shall be permitted reasonable access to the abandoned mined lands as necessary to perform any remediation or reclamation work. The access shall be obtained with the consent of the owner or possessor of the property or, if the consent is withheld or otherwise unobtainable, with a warrant duly issued pursuant to the procedure described 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, the director may enter the property without consent or the issuance of a warrant.

(e) For any remediation or reclamation work accomplished, or other necessary remedial action taken by any governmental agency, the operator, landowner, and the person or persons who allowed or caused any pollution or nuisance are liable to that governmental agency to the extent of the reasonable costs actually incurred in remediating,

reclaiming, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and the director to the extent of the director's contribution to the costs of the remediation, reclamation, cleanup, and abatement or other corrective action.

(f) (1) The amount of the costs constitutes a lien on the affected property upon service of a copy of the notice of lien on the owner and upon the recordation of a notice of lien, which identifies the property on which the remediation or reclamation was accomplished, the amount of the lien, and the owner of record of the property, in the office of the county recorder of the county in which the property is located. Upon recordation, the lien has the same force, effect, and priority as a judgment lien, except that it attaches only to the property posted and described in the lien. The lien shall continue for 10 years from the time of the recording of the notice of the lien unless sooner released or otherwise discharged, and may be renewed.

(2) Not later than 45 days after receiving a notice of lien, the owner may petition the court for an order releasing the property from the lien or reducing the amount of the lien. In this court action, the governmental agency that incurred the costs shall establish that the costs were reasonable and necessary. The lien may be foreclosed by an action brought by the director, for a money judgment. Money recovered by a judgment in favor of the director shall be used for the purposes of this chapter.

(g) If the operation has been idle for more than one year without obtaining an approved interim management plan, an application for the review of an interim management plan filed for the purpose of preventing the director from undertaking remediation or reclamation of abandoned mined lands under this section shall be voidable by the lead agency or the board upon notice and hearing by the lead agency or the board. In the event of conflicting determinations, the decision of the board shall prevail.

(h) "Remediate," for the purposes of this section, means to improve conditions so that threat to or damage to public health and safety or the environment are lessened or ameliorated, including the cleanup and abatement of pollution or nuisance or threatened pollution or nuisance.

(i) "Threaten," for the purposes of this section, means a condition creating a probability of harm, when the probability and potential extent of harm make it reasonably necessary to take action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(j) This section shall apply to abandoned mined lands on which the mining operations were conducted after January 1, 1976.

(k) The director may act under this section only upon the appropriation of funds by the Legislature for the purposes of carrying out this section.

(*l*) Nothing in this section limits the authority of any state agency under any other law or regulation to enforce or administer any cleanup or abatement activity.

SEC. 25. Section 30404 of the Public Resources Code is amended to read:

30404. (a) The commission shall periodically, in the case of the State Energy Resources Conservation and Development Commission, the State Board of Forestry and Fire Protection, the State Water Resources Control Board and the California regional water quality control boards, the State Air Resources Board and air pollution control districts and air quality management districts, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, the California Geological Survey and the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the State Lands Commission, and may, with respect to any other state agency, submit recommendations designed to encourage the state agency to carry out its functions in a manner consistent with this division. The recommendations may include proposed changes in administrative regulations, rules, and statutes.

(b) Each of those state agencies shall review and consider the commission recommendations and shall, within six months from the date of their receipt, to the extent that the recommendations have not been implemented, report to the Governor and the Legislature its action and reasons therefor. The report shall also include the state agency's comments on any legislation that may have been proposed by the commission.

SEC. 26. 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 870

An act to amend Section 884 of the Public Utilities Code, relating to broadband services, and making an appropriation therefor.

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

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

SECTION 1. Section 884 of the Public Utilities Code is amended to read:

884. (a) It is the intent of the Legislature that any program administered by the commission that addresses the inequality of access to high-speed broadband services by providing those services to schools and libraries at a discounted price, provide comparable discounts to a nonprofit community technology program.

(b) Notwithstanding any other law or existing program of the commission, but consistent with the purposes for which those funds were appropriated from the California Teleconnect Fund Administrative Committee Fund in Item 8660-001-0493 of Section 2.00 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003), and reappropriated in Item 8660-491 of Section 2.00 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006), the commission may expend up to two million dollars ($2,000,000) of the unencumbered amount of those funds for the nonrecurring installation costs for high-speed broadband services for community organizations that are eligible for discounted rates pursuant to Section 280.

(c) For the purpose of this section:

(1) "High-speed broadband services" means a system for the digital transmission of information over the Internet at a speed of at least 384 kilobits per second.

(2) "Nonprofit community technology program" means a community-based nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and engages in diffusing technology into local communities and training local communities that have no access to, or have limited access to, the Internet and advanced telecommunications technologies.

CHAPTER 871

An act to amend Section 708 of, and to add Section 708.5 to, the Corporations Code, relating to corporations.

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

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

SECTION 1. Section 708 of the Corporations Code is amended to read:

708. (a) Except as provided in Sections 301.5 and 708.5, every shareholder complying with subdivision (b) and entitled to vote at any election of directors may cumulate such shareholder's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the shareholder's shares are normally entitled, or distribute the shareholder's votes on the same principle among as many candidates as the shareholder thinks fit.

(b) No shareholder shall be entitled to cumulate votes (i.e., cast for any candidate a number of votes greater than the number of votes that the shareholder normally is entitled to cast) unless the candidate or candidates' names have been placed in nomination prior to the voting and the shareholder has given notice at the meeting prior to the voting of the shareholder's intention to cumulate the shareholder's votes. If any one shareholder has given that notice, all shareholders may cumulate their votes for candidates in nomination.

(c) Except as provided in Section 708.5, in any election of directors, the candidates receiving the highest number of affirmative votes of the shares entitled to be voted for them up to the number of directors to be elected by those shares are elected; votes against the director and votes withheld shall have no legal effect.

(d) Subdivision (a) applies to the shareholders of any mutual water company organized or existing for the purpose of delivering water to its shareholders at cost on lands located within the boundaries of one or more reclamation districts now or hereafter legally existing in this state and created by or formed under the provisions of any statute of this state, but does not otherwise apply to the shareholders of mutual water companies unless their articles or bylaws so provide.

(e) Elections for directors need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 2. Section 708.5 is added to the Corporations Code, to read:

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

(1) "Uncontested election" means an election of directors in which, at the expiration of the time fixed under the articles of incorporation or bylaws requiring advance notification of director candidates or, absent such a provision in the articles of incorporation or bylaws, at a time fixed by the board of directors that is not more than 14 days before notice is given of the meeting at which the election is to occur, the number of

candidates for election does not exceed the number of directors to be elected by the shareholders at that election.

(2) "Listed corporation" means a domestic corporation that qualifies as a listed corporation under subdivision (d) of Section 301.5.

(b) Notwithstanding paragraph (5) of subdivision (a) of Section 204, a listed corporation that has eliminated cumulative voting pursuant to subdivision (a) of Section 301.5 may amend its articles of incorporation or bylaws to provide that, in an uncontested election, approval of the shareholders, as specified in Section 153, shall be required to elect a director.

(c) Notwithstanding subdivision (b) of Section 301, if an incumbent director fails to be elected by approval of the shareholders (Section 153) in an uncontested election of a listed corporation that has amended its articles of incorporation or bylaws pursuant to subdivision (b), then, unless the incumbent director has earlier resigned, the term of the incumbent director shall end on the date that is the earlier of 90 days after the date on which the voting results are determined pursuant to Section 707 or the date on which the board of directors selects a person to fill the office held by that director pursuant to subdivision (d).

(d) Any vacancy on the board of directors resulting from any failure of a candidate to be elected by approval of the shareholders (Section 153) in an uncontested election of a listed corporation that has amended its articles of incorporation or bylaws pursuant to subdivision (b) shall be filled in accordance with the procedures set forth in Section 305.

CHAPTER 872

An act to amend Section 100 of, and to add Section 100.95 to, the Revenue and Taxation Code, relating to local government finance.

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

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

SECTION 1. Section 100 of the Revenue and Taxation Code is amended to read:

100. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues

attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including

the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency.

(4) In a county of the second class, for the 1992–93 fiscal year and each fiscal year thereafter, "taxing jurisdiction" includes that fund that has been designated by the auditor as the "Unallocated Residual Public Utility Tax Fund." All revenues allocated to that fund pursuant to this section shall be deposited in that fund and shall be distributed as follows:

(A) For the 1992–93 fiscal year to the 1996–97 fiscal year, inclusive, at the discretion of the county board of supervisors.

(B) For the 1997–98 fiscal year, 100 percent to the Orange County Fire Authority.

(C) For the 1998–99 fiscal year and each fiscal year thereafter, in accordance with the following schedule:

(i) Fifty-seven and forty-seven hundredths percent to the Orange County Fire Authority.

(ii) Forty-one and forty-seven hundredths percent to the Orange County Library District.

(iii) Forty-eight hundredths percent to the Buena Park Library District.

(iv) Fifty-eight hundredths percent to the Placentia Library District.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section does not apply to unitary property of regulated railway companies.

(i) This section does not apply to property that on July 1, 1987, was undeveloped and owned by a utility and located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of

that resolution, including a legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county auditor prior to January 1, 2006, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2).

(2) If the city, county, or city and county has adopted and transmitted a resolution pursuant to paragraph (1), the county auditor shall annually allocate the property tax revenue attributable to the new construction described in the development plan or agreement, as if that new construction were subject to assessment by the county assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county

general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(*l*) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 1.5. Section 100 of the Revenue and Taxation Code is amended to read:

100. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Section 100.95 and levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Section 100.95 and levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) and pursuant to paragraph (2) of subdivision (a) of Section 100.1 by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current

year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency.

(4) In a county of the second class, for the 1992–93 fiscal year and each fiscal year thereafter, "taxing jurisdiction" includes that fund that has been designated by the auditor as the "Unallocated Residual Public Utility Tax Fund." All revenues allocated to that fund pursuant to this section shall be deposited in that fund and shall be distributed as follows:

(A) For the 1992–93 fiscal year to the 1996–97 fiscal year, inclusive, at the discretion of the county board of supervisors.

(B) For the 1997–98 fiscal year, 100 percent to the Orange County Fire Authority.

(C) For the 1998–99 fiscal year and each fiscal year thereafter, in accordance with the following schedule:

(i) Fifty-seven and forty-seven hundredths percent to the Orange County Fire Authority.

(ii) Forty-one and forty-seven hundredths percent to the Orange County Library District.

(iii) Forty-eight hundredths percent to the Buena Park Library District.

(iv) Fifty-eight hundredths percent to the Placentia Library District.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section applies to the unitary property of regulated railway companies only to the extent described in Section 100.1.

(i) This section does not apply to property that on July 1, 1987, was undeveloped and owned by a utility and located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of

Equalization and the county auditor prior to January 1, 2006, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2).

(2) If the city, county, or city and county has adopted and transmitted a resolution pursuant to paragraph (1), the county auditor shall annually allocate the property tax revenue attributable to the new construction described in the development plan or agreement, as if that new construction were subject to assessment by the county assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(*l*) The amendments made to this section by the act that added this subdivision apply for the 2007–08 fiscal year and for each fiscal year thereafter.

SEC. 2. Section 100.95 is added to the Revenue and Taxation Code, to read:

100.95. (a) Notwithstanding any other law, for the 2007–08 fiscal year and each fiscal year thereafter, all of the following apply:

(1) The property tax assessed value of qualified property that is owned by a public utility and that is assessed by the State Board of Equalization shall be allocated entirely to the county in which the qualified property is located.

(2) The tax rate applied to the assessed value allocated pursuant to paragraph (1) shall be the rate calculated pursuant to subdivision (b) of Section 100.

(3) The county auditor shall allocate the property tax revenues derived from applying the tax rate described in paragraph (1) of subdivision (b) of Section 100 to the qualified property described in this section as follows:

(A) (i) School entities, as defined in subdivision (f) of Section 95, shall be allocated an amount equivalent to the same percentage the school entities received in the prior fiscal year from the property tax revenues paid by the utility in the county in which the qualified property is located.

(ii) The county in which the qualified property is located shall be allocated an amount equivalent to the same percentage the county received in the prior fiscal year from the property tax revenues paid by the utility in the county in which the qualified property is located.

(iii) Special districts, other than an "enterprise special district" as defined in paragraph (3) of subdivision (c), shall be allocated an amount equivalent to the same percentage that these special districts, other than enterprise special districts, received in the prior fiscal year from the property tax revenues paid by the utility in the county in which the qualified property is located.

(B) The balance of these revenues remaining after the allocations made under subparagraph (A) shall be allocated as follows:

(i) Ninety percent shall be allocated as follows:

(I) If the qualified property is located in a city, to the city in which that property is located.

(II) If the qualified property is located in an unincorporated area of the county, to the county.

(ii) Ten percent shall be allocated as follows:

(I) If the qualified property is provided water services by a water district that otherwise receives a property tax revenue allocation under this chapter, to that water district. If the qualified property is provided water services by more than one water district that otherwise receives a property tax revenue allocation under this chapter, those districts shall each receive an equal share of this revenue.

(II) If the qualified property is provided water services by a city, to that city.

(III) If the qualified property is provided water services by a private water company or a water district that does not otherwise receive a property tax revenue allocation under this chapter:

(aa) If the qualified property is located in a city, to the city in which that property is located.

(ab) If the qualified property is located in an unincorporated area of the county, to the county.

(4) The county auditor shall allocate the property tax revenues derived from applying the tax rate described in paragraph (2) of subdivision (b) of Section 100 to the qualified property described in this section in accordance with subdivision (d) of Section 100, except that school entities, as defined in subdivision (f) of Section 95, shall be allocated an amount equivalent to the same percentage the school entities received in the prior fiscal year from the property tax revenues paid by the utility in the county in which the qualified property is located.

(5) In order to provide the allocations required by paragraphs (3) and (4), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the qualified property to jurisdictions other than those receiving an allocation under paragraphs (3) and (4).

(b) (1) A special district that serves more than one county shall spend property tax revenues allocated under this section within the county that allocated the property tax revenues in or near communities impacted by the qualified property.

(2) All other special districts that receive property tax revenues under this section and that have qualified property located entirely or partially within their jurisdiction shall spend the property tax revenues in or near communities impacted by the qualified property.

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

(1) "Qualified property" means all plant and associated equipment, including substation facilities and fee-owned land and easements, placed in service by the public utility on or after January 1, 2007, and related to the following:

(A) Electrical substation facilities that meet either of the following conditions:

(i) The high-side voltage of the facility's transformer is 50,000 volts or more.

(ii) The substation facilities are operated at 50,000 volts or more.

(B) Electric generation facilities that have a nameplate generating capacity of 50 megawatts or more.

(C) Electrical transmission line facilities of 200,000 volts or more.

(2) "Qualified property" does not include either of the following:

(A) Additions, modifications, reconductoring, or equivalent replacements to the plant and associated equipment made after the plant and associated equipment are placed in service.

(B) Property that is subject to subdivision (k) of Section 100.

(3) (A) An "enterprise special district" means a special district, other than a special district described in subparagraph (B), that performs, as

reported in the 2001–02 edition of the State Controller's Special Districts Annual Report, an enterprise function.

(B) An "enterprise special district" does not include any of the following:

(i) A qualified special district, as defined in Section 97.34.

(ii) A district organized pursuant to the Local Health Care District Law set forth in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(iii) A transit district.

(4) A public utility shall provide to the State Board of Equalization a description of the qualified property that is subject to this section in the form prescribed by the board. The State Board of Equalization shall transmit to the auditor of each county in which qualified property is located the information necessary to identify that property and the corresponding assessed value data necessary to make the property tax revenue allocations required by this section.

SEC. 3. The Legislature finds and declares that, in order to implement this act in a cost-effective manner, this act shall not be construed to require the State Board of Equalization to modify its computerized roll system. In this respect, a public utility that owns qualified property that is subject to the allocation provisions of this act shall provide the State Board of Equalization with the information necessary to comply with any provision of this act.

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. Section 1.5 of this bill incorporates amendments to Section 100 of the Revenue and Taxation Code proposed by both this bill and AB 2670. 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 100 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2670, in which case Section 1 of this bill shall not become operative.

CHAPTER 873

An act to add Section 2023.5 to the Business and Professions Code, relating to the healing arts.

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

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

SECTION 1. Section 2023.5 is added to the Business and Professions Code, to read:

2023.5. (a) The board, in conjunction with Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

(1) The appropriate level of physician supervision needed.

(2) The appropriate level of training to ensure competency.

(3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:

(A) Patient selection.

(B) Patient education, instruction, and informed consent.

(C) Use of topical agents.

(D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) On or before January 1, 2009, the board and the Board of Registered Nursing shall promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

CHAPTER 874

An act to amend Section 56.10 of the Civil Code, to amend Sections 101080 and 101085 of, and to add Sections 101080.2 and 120176 to, the Health and Safety Code, relating to public health.

[Approved by Governor September 30, 2006. Filed with
Secretary of State September 30, 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 Local Pandemic and Emergency Health Preparedness Act of 2006.

SEC. 2. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient

who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982,

contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits

from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no

information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 3. Section 101080 of the Health and Safety Code is amended to read:

101080. Whenever a release, spill, escape, or entry of waste occurs as described in paragraph (2) of subdivision (b) of Section 101075 and the director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, or whenever there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent, the director may declare a health emergency and the local health officer may declare a local health emergency in the jurisdiction or any area thereof affected by the threat to the public health. Whenever a local health emergency is declared by a local health officer pursuant to this section, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the board of supervisors. The board of supervisors shall review, at least every 14 days until the local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

SEC. 4. Section 101080.2 is added to the Health and Safety Code, to read:

101080.2. (a) The local health officer may issue, and first responders may execute, an order authorizing first responders to immediately isolate exposed individuals that may have been exposed to biological, chemical, toxic, or radiological agents that may spread to others. An order issued pursuant to this section shall not be in effect for a period longer than two hours and shall only be issued if the means are both necessary and the least restrictive possible to prevent human exposure.

(b) Before any implementation of the authority in subdivision (a), the local health officer shall establish a related memorandum of understanding with first responders in his or her jurisdiction that shall require consultation with the Office of Emergency Services operational area coordinator, consistent with the standardized emergency management system established pursuant to Section 8607 of the Government Code, and shall include where and how exposed subjects will be held pending decontamination in the local jurisdiction. That memorandum of understanding shall be made available to the public.

(c) A violation of an order issued by the local health officer and executed by a first responder pursuant to subdivision (a) is a

misdemeanor, punishable by a fine of up to one thousand dollars ($1000), or by imprisonment in the county jail for a period of up to 90 days, or by both.

SEC. 5. Section 101085 of the Health and Safety Code is amended to read:

101085. (a) After the declaration of a health emergency or a local health emergency pursuant to Section 101080, the director or local health officer may do any or all of the following:

(1) Only in the case of a release, spill, escape, or entry of waste as described in paragraph (2) of subdivision (b) of Section 101075, require any person or organization that the director or local health officer shall specify to furnish any information known relating to the properties, reactions, and identity of the material that has been released, spilled, or escaped. The director or local health officer may require information to be furnished, under penalty of perjury, by the person, company, corporation, or other organization that had custody of the material, and, if the material is being transferred or transported, by any person, company, corporation, or organization that caused the material to be transferred or transported. This information shall be furnished to the director or local health officer upon request in sufficient detail, as determined by the director or local health officer, as required to take any action necessary to abate the health emergency or local health emergency or protect the health of persons in the jurisdiction, or any area thereof, who are, or may be affected. However, the burden, including costs, of furnishing the information shall bear a reasonable relationship to the need for the information and the benefits to be obtained therefrom.

(2) Provide the information, or any necessary portions thereof, or any other necessary information available to the director or local health officer to state or local agencies responding to the health emergency or local health emergency or to medical and other professional personnel treating victims of the local health emergency.

(3) Sample, analyze, or otherwise determine the identifying and other technical information relating to the health emergency or local health emergency as necessary to respond to or abate the local health emergency and protect the public health.

(b) After the declaration of a local health emergency by the local health officer pursuant to Section 101080, the following shall apply in the jurisdiction in which the local health emergency has been declared:

(1) Other political subdivisions have full power to provide mutual aid to any area affected by a local health emergency in accordance with local ordinances, resolutions, emergency plans, or agreements therefor.

(2) State agencies may provide mutual aid, including personnel, equipment, and other available resources, to assist political subdivisions

during a local health emergency or in accordance with mutual aid agreements or at the direction of the Governor.

(3) In the absence of a state of war emergency or state of emergency, the cost of extraordinary services incurred by political subdivisions in executing mutual aid agreements in a local health emergency shall constitute a legal charge against the state when approved by the Governor in accordance with orders and regulations promulgated as prescribed in Section 8567 of the Government Code.

(c) Under this section, a local health emergency shall be considered a local emergency for purposes of Section 8659 of the Government Code.

(d) This section does not limit or abridge any of the powers or duties granted to the State Water Resources Control Board and to each regional water quality control board by Division 7 (commencing with Section 13000) of the Water Code. This section also does not limit or abridge the powers or duties granted to the State Air Resources Board or to any air pollution control district by Division 26 (commencing with Section 39000).

This section does not limit or abridge any of the powers or duties granted to the Director of Food and Agriculture or to any county agricultural commissioner by Division 6 (commencing with Section 11401) or by Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 6. Section 120176 is added to the Health and Safety Code, to read:

120176. During an outbreak of communicable disease, or upon the imminent and proximate threat of communicable disease outbreak or epidemic that threatens the public's health, all health care providers, clinics, health care service plans, pharmacies, their suppliers, distributors, and other for-profit and nonprofit entities shall, upon request of the local health officer, disclose to the local health officer inventories of, critical medical supplies, equipment, pharmaceuticals, vaccines, or other products that may be used for the prevention of, or may be implicated in the transmission of communicable disease. The local health officer shall keep this proprietary information confidential.

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 875

An act to add and repeal Section 2933.4 of the Penal Code, relating to prisoners.

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

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

SECTION 1. Section 2933.4 is added to the Penal Code, to read:

2933.4. (a) Notwithstanding any other provision of law, any inmate under the custody of the Department of Corrections and Rehabilitation who is not currently serving and has not served a prior indeterminate sentence or a sentence for a violent felony, a serious felony, or a crime that requires him or her to register as a sex offender pursuant to Section 290, who has successfully completed an inprison drug treatment program, upon release from state prison, shall, whenever possible, be entered into a 150-day residential aftercare drug treatment program sanctioned by the department.

(b) As a condition of parole, if the inmate successfully completes 150 days of residential aftercare treatment, as determined by the Department of Corrections and Rehabilitation and the aftercare provider, the parolee shall be discharged from parole supervision at that time.

(c) Commencing with 2008, the department shall report annually to the Joint Legislative Budget Committee and the State Auditor on the effectiveness of these provisions, including recidivism rates.

CHAPTER 876

An act to add and repeal Section 17441 of the Family Code, relating to child support.

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

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

SECTION 1. Section 17441 is added to the Family Code, to read:

17441. (a) If a local child support agency is providing child support services pursuant to Title IV-D of the Social Security Act and pursuant to Section 17400, 17402, or 17404, the court may modify a child support order when a local child support agency submits an application for modification of support in compliance with this section. An order issued pursuant to this section shall be known as an expedited modification order.

(b) The local child support agency may seek modification of an existing child support order under this section if it has received income information for one or both of the parents that indicates that an existing order is not in substantial conformity with state child support guidelines and the case meets criteria established by the Department of Child Support Services. In developing the criteria for cases to be eligible for expedited modification under this section, the Department of Child Support Services shall consult with the Child Support Directors Association, the Judicial Council, child support advocacy organizations, representatives of custodial and noncustodial parents, and representatives of the local child support agencies, child support commissioners, and family law facilitators from the counties that are designated as the pilot counties in subdivision (i). The criteria shall be developed within six months of the enactment of this act and shall be annually reviewed by the Department of Child Support Services in consultation with the stakeholders identified in this section.

(c) To establish an expedited modification order, the local child support agency shall serve an application to modify child support, child support guideline worksheet, proposed order of support, a blank copy of both an objection to modification and request for hearing, and instructions on how to complete the objection to modification and request for hearing on both parents. The child support guideline worksheet shall include a simple to read statement of the financial and visitation factors used to determine the guideline level of child support and a description of the sources of information used to determine the financial and visitation factors. Service of the application and supporting documents may be made as specified in the Code of Civil Procedure. Service by mail shall be to a verified active address on file with the local child support agency.

(d) A party may object to the proposed order and request a hearing by serving the local child support agency, within 30 days of receipt of the application to modify child support, with a completed objection to modification and request for hearing.

(e) Upon receipt of an objection, the local child support agency shall file the objection together with the application to modify support, the proposed order, and the child support guideline worksheet with the court. The court shall set the matter for hearing. The local child support agency shall give each party 30 days written notice of the hearing date. At the hearing on the objection to the proposed order, the court may enter a child support order that is in accordance with the state child support guideline.

(f) If the local child support agency does not receive an objection to modification and request for a hearing within 40 days of service of the application, it may file the proposed order, the application to modify child support, and the child support guideline worksheet with the court, together with a proof of service for the parties and a statement verifying that the local child support agency has not received an objection to the proposed order. The court may issue a final order of modification upon receipt of these documents without further hearing or evidence. However, no final order shall be issued unless the local child support agency certifies that service was made to an address verified as current and active, within the last 90 days, through a reliable government database. The local child support agency shall serve the final order upon the parties by mail along with forms and information necessary to set aside the order.

(g) (1) Any order modified pursuant to subdivision (e) may be made retroactive to the date of filing of the objection, application to modify support, proposed order, and child support guideline worksheet.

(2) Except for good cause shown, any order modified pursuant to subdivision (f) shall be effective on the first day of the month following the date of service of the application and supporting documents as provided in the Code of Civil Procedure.

(h) Notwithstanding any other law, the local child support agency or either parent may file a motion to set aside an expedited modification of support established under subdivision (f) within one year of the first collection of support that occurs after modification of the order. The one-year time period from the first collection shall run from the date that the local child support agency receives the collection. If the expedited modification order was for zero support, the one-year period shall run from the date that the party filing the motion to set aside the support order received notice of the modified order. Upon the request of either parent made within the timeframes set forth in this subdivision, the local child support agency shall file a motion to set aside the order. The court retains the jurisdiction to set support at the appropriate amount back to the commencement date of the vacated order in the event a set aside is granted.

(i) This section shall apply only to the Counties of Alameda, Fresno, Orange, San Mateo, and Santa Clara as a pilot project. The Department of Child Support Services and the Judicial Council shall conduct an evaluation of the effectiveness of this pilot project and shall report the results of the pilot project to the Governor and the Legislature on or before July 1, 2009.

(j) The Department of Child Support Services shall develop forms to implement this section in consultation with the Judicial Council, representatives of the Child Support Directors Association, child support advocacy organizations, representatives of custodial and noncustodial parents, and the local child support agencies, child support commissioners, and family law facilitators from the counties that are designated as the pilot counties in subdivision (i). The forms shall be developed within six months of the enactment of this act and shall be annually reviewed by the Department of Child Support Services in consultation with the stakeholders identified in this section.

(k) This section shall not be operative in a county described in subdivision (i) until the county board of supervisors adopts a resolution that makes this section applicable in that county.

(*l*) 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 877

An act to add Sections 43868 and 43869 to the Health and Safety Code, relating to fuel.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 network of hydrogen production and distribution facilities for fueling vehicles is developing in California. It is the state's goal to promote this development of hydrogen infrastructure, in part, through demonstration projects.

(b) The California Environmental Protection Agency has produced the California Hydrogen Highway Blueprint Plan as part of the state's efforts to diversify its sources of transportation fuels available to

California motorists by expanding the network of hydrogen fueling stations and availability of hydrogen-powered vehicles in the state.

(c) The California Hydrogen Highway Blueprint Plan establishes initial goals for the greenhouse gas emissions and renewable energy content of hydrogen produced for use in the hydrogen highway network.

(d) The production of hydrogen fuels for use in vehicles, when made from renewable sources of energy, emits virtually zero net greenhouse gases into the atmosphere.

(e) The use of hydrogen fuel in motor vehicles can reduce or, when used in a fuel cell vehicle, virtually eliminate tailpipe emissions of criteria pollutants.

(f) Hydrogen fueling stations can reduce onsite evaporative emissions when compared with today's gasoline fueling stations.

(g) The widespread use of hydrogen fuels in transportation can reduce California's dependence on petroleum-based fuels, and help enhance our nation's energy security.

(h) Moving toward a hydrogen-based economy with an emphasis on hydrogen fuel production from clean, renewable sources could create thousands of new clean manufacturing and technology jobs for California residents.

(i) Natural gas, while still an emitter of heat-trapping greenhouse gases, is cleaner than other fossil fuels, and therefore is an important part of a transitional strategy to a clean hydrogen fuel economy.

(j) A hydrogen highway network in the state should produce hydrogen fuel from clean, renewable sources and reduce greenhouse gases and other pollutants compared to petroleum-based fuels.

(k) Hydrogen fuel and fuel cell vehicles are a central part of achieving the state's Zero Emission Vehicle Program.

(*l*) According to the California Hydrogen Highway Blueprint Plan, the absence of specific goals for reducing emissions and using renewable resources to produce hydrogen fuel might actually increase greenhouse gas and particulate matter emissions relative to petroleum fueled vehicles.

(m) Hydrogen produced from natural gas or from clean electricity and used in hydrogen or hydrogen blend vehicles will reduce the consumption of fossil fuels compared to gasoline vehicles.

SEC. 2. Section 43868 is added to the Health and Safety Code, to read:

43868. (a) It is the intent of the Legislature that, when the California Hydrogen Highway Blueprint Plan is implemented, it be done in a clean and environmentally responsible and advantageous manner.

(b) It is further the intent of the Legislature that the state board work with other relevant state agencies on the production of hydrogen, with an emphasis on hydrogen produced from renewable resources, as part

of a strategy to reduce the state's dependence on petroleum, achieve the state's greenhouse gas emission reduction targets, and improve air quality for the state's residents.

(c) It is further the intent of the Legislature that the California Environmental Protection Agency and the state board, as part of the implementation of the California Hydrogen Highway Blueprint Plan, include in their priorities the deployment of hydrogen or clean hydrogen blend fueled transit buses.

(d) It is further the intent of the Legislature that the state board consider including in a future revision of the California Hydrogen Highway Blueprint Plan a study to determine the necessary steps to maximize the production of hydrogen fuel made from eligible renewable resources.

SEC. 3. Section 43869 is added to the Health and Safety Code, to read:

43869. The state board shall, no later than July 1, 2008, develop and, after at least two public workshops, adopt hydrogen fuel regulations to ensure the following:

(a) That state funding for the production and use of hydrogen fuel, as described in the California Hydrogen Highway Blueprint Plan, contributes to the reduction of greenhouse gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. The regulations shall, at a minimum, do all of the following:

(1) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average hydrogen powered vehicle fueled by hydrogen from fueling stations that receive state funds are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

(2) (A) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced for, or dispensed by, fueling stations that receive state funds be made from eligible renewable energy resources as defined in subdivision (a) of Section 399.12 of the Public Utilities Code.

(B) If the state board determines that there is insufficient availability of hydrogen fuel from eligible renewable resources to meet the 33.3 percent requirement of this paragraph, the state board may, after at least one public workshop and on a one-time basis, reduce the requirement by an amount, not to exceed 10 percentage points, that the state board determines is necessary to result in a renewable percentage requirement for hydrogen fuel that is achievable.

(C) If the executive officer of the state board determines that it is not feasible for a public transit operator to use hydrogen fuel made from eligible renewable resources, the executive officer may exempt the

operator from the requirements of this paragraph for a period of not more than five years and may extend the exemption for up to five additional years.

(3) Prohibit hydrogen fuel producers from counting as a renewable energy resource, pursuant to paragraph (2), any electricity produced from sources previously procured by a retail seller and verifiably counted by the retail seller towards meeting the renewables portfolio standard obligation, as required by Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(4) Require that all hydrogen fuel dispensed from fueling stations that receive state funds be generated in a manner so that local well-to-tank emissions of nitrogen oxides plus reactive organic gases are at least 50 percent lower than well-to-tank emissions of the average motor gasoline sold in California when measured on an energy equivalent basis.

(5) Require that well-to-tank emissions of relevant toxic air contaminants for hydrogen fuel dispensed from fueling stations that receive state funds be reduced to the maximum extent feasible at each site when compared to well-to-tank emissions of toxic air contaminants of the average motor gasoline fuel on an energy-equivalent basis. In no case shall the toxic emissions be greater than the emissions from gasoline on an energy equivalent basis.

(6) Require that providers of hydrogen fuel for transportation in the state report to the state board the annual mass of hydrogen fuel dispensed and the method by which the dispensed hydrogen was produced and delivered.

(7) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this subdivision, for a period of no more than five years, hydrogen dispensing facilities constructed for small demonstration or temporary purposes. The exemption may be extended on a case-by-case basis upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed from exempted facilities shall not exceed 10 percent of the total mass of hydrogen fuel dispensed for transportation purposes in the state.

(b) That, in any year immediately following a 12-month period in which the mass of hydrogen fuel dispensed for transportation purposes in California exceeds 3,500 metric tons, the production and direct use of hydrogen fuels for motor vehicles in the state, including, but not limited to, any hydrogen highway network that is developed pursuant to the California Hydrogen Highway Blueprint Plan, contributes to a reduced dependence on petroleum, as well as reductions in greenhouse

gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. For the purpose of this subdivision, the regulations, at a minimum, shall do all of the following:

(1) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average hydrogen powered vehicle in California are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

(2) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced or dispensed in California for motor vehicles be made from eligible renewable energy resources as defined in subdivision (a) of Section 399.12 of the Public Utilities Code.

(3) Prohibit hydrogen fuel producers from counting as a renewable energy resource, for the purposes of paragraph (2), any electricity produced from sources previously procured by a retail seller and verifiably counted by the retail seller towards meeting the requirements established by the California Renewables Portfolio Standard Program, as set forth in Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(4) Require that all hydrogen fuel dispensed in California for motor vehicles be generated in a manner so that local well-to-tank emissions of nitrogen oxides plus reactive organic gases are at least 50 percent lower than well-to-tank emissions of the average motor gasoline sold in California when measured on an energy equivalent basis.

(5) Require that well-to-tank emissions of relevant toxic air contaminants from hydrogen fuel produced or dispensed in California be reduced to the maximum extent feasible at each site when compared to well-to-tank emissions of toxic air contaminants of the average motor gasoline fuel on an energy-equivalent basis. In no case shall the toxic emissions from hydrogen fuel be greater than the toxic emissions from gasoline on an energy-equivalent basis.

(6) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this subdivision, for a period of no more than five years, hydrogen dispensing facilities that dispense an average of no more than 100 kilograms of hydrogen fuel per month. The exemption may be extended on a case-by-case basis by the executive officer upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed statewide from exempted facilities shall not exceed 10 percent of the total mass of hydrogen fuel dispensed for transportation purposes in the state.

(7) Authorize the state board, if it determines that reporting is necessary to facilitate enforcement of the requirements of this

subdivision, to require that providers of hydrogen fuel for transportation in the state report to the state board the annual mass of hydrogen fuel dispensed and the method by which the dispensed hydrogen was produced and delivered.

(c) Notwithstanding subdivision (b), the state board may increase the 3,500-metric-ton threshold in subdivision (b) by no more than 1,500 metric tons if at least one of the following requirements is met:

(1) The 3,500-metric-ton threshold is first met prior to January 1, 2011.

(2) The state board determines that the 3,500-metric-ton threshold has been met primarily due to hydrogen fuel consumed in heavy duty vehicles.

(3) The state board determines at a public hearing that increasing the threshold would accelerate the deployment of hydrogen fuel cell vehicles in the state.

(d) The state board, in consultation with other relevant agencies as appropriate, shall review the renewable resource requirements adopted pursuant to paragraphs (2) and (3) of subdivision (a) and paragraphs (2) and (3) of subdivision (b) every four years and shall increase the renewable resource percentage requirements if it determines that it is technologically feasible to do so and will not substantially hinder the development of hydrogen as a transportation fuel in a manner that is consistent with this section.

(e) The state board shall review the emission requirements adopted pursuant to paragraphs (1), (4), and (5) of subdivision (a) and paragraphs (1), (4), and (5) of subdivision (b) every four years and shall strengthen the requirements if it determines it is technologically feasible to do so and will not substantially hinder the development of hydrogen as a transportation fuel in a manner that is consistent with this section.

(f) The state board shall produce and periodically update a handbook to inform and educate motor vehicle manufacturers, hydrogen fuel producers, hydrogen service station operators, and other interested parties on how to comply with the requirements set forth in this section. This handbook shall be made available on the agency's Internet Web site on or before July 1, 2009.

(g) The Secretary for Environmental Protection shall convene the California Environmental Protection Agency's Environmental Justice Advisory Committee at least once annually to solicit the committee's comments on the production and distribution of hydrogen fuel in the state.

(h) The Secretary for Environmental Protection, in consultation with the state board, shall recommend to the Legislature and the Governor, on or before January 1, 2010, incentives that could be offered to

businesses within the hydrogen fuel industry and consumers to spur the development of clean sources of hydrogen fuel.

(i) Unless the context requires otherwise, the definitions set forth in this subdivision govern the construction of this section:

(1) "Well-to-tank emissions" means emissions resulting from production of a fuel, including resource extraction, initial processing, transport, fuel production, distribution and marketing, and delivery into the fuel tank of a consumer vehicle.

(2) "Well-to-wheel emissions" means emissions resulting from production of a fuel, including resource extraction, initial processing, transport, fuel production, distribution and marketing, and delivery and use in a consumer vehicle.

CHAPTER 878

An act to amend Section 123485 of, and to add Sections 123491, 123492, 123493, and 123516 to, the Health and Safety Code, relating to perinatal services, and making an appropriation therefor.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 Nurse-Family Partnership program, which provides educational, health and other resources to new mothers during pregnancy and the first two years of their child's life, has been proven through randomized clinical trial scientific research to reduce significantly the amounts of drugs, including nicotine, and alcohol use and abuse by mothers, the occurrence of criminal and delinquent activity committed by mothers and their children, and the incidence of child abuse and neglect.

(b) The Nurse-Family Partnership program has also been proven through this same research to reduce the number of subsequent births to participating mothers, increase the length of time between subsequent births, and reduce the mother's need for other forms of public assistance.

(c) The Nurse-Family Partnership program has been proven to better prepare children to enter school.

(d) The Nurse-Family Partnership program helps families become economically self-sufficient by helping parents develop a vision for their

own future, plan future pregnancies, continue their education, and locate and prepare for employment

SEC. 2. Section 123485 of the Health and Safety Code is amended to read:

123485. The following definitions shall govern the construction of this article:

(a) "Community-based comprehensive perinatal care" means a range of prenatal, delivery, postpartum, infant, and pediatric care services delivered in an urban community or neighborhood, rural area, city or county clinic, city or county health department, freestanding birth center, or other health care provider facility by health care practitioners trained in methods of preventing complications and problems during and after pregnancy, and in methods of educating pregnant women of these preventive measures, and who provide a continuous range of services. The health care practitioners shall, through a system of established linkages to other levels of care in the community, consult with, and, when appropriate, refer to, specialists.

(b) "Low income" means all persons of childbearing age eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) and all persons eligible for public social services for which federal reimbursement is available, including potential recipients. "Potential recipients" shall include the pregnant woman and her infant in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

(c) "Prenatal care" means care received from conception until the completion of labor and delivery.

(d) "Perinatal care" means care received from the time of conception through the first year after birth.

(e) "Qualified organization" means any nonprofit, not-for-profit, or for-profit corporation with demonstrated expertise in implementing the Nurse-Family Partnership program or similar programs in different local settings.

(f) "Qualified trainer" means anyone who has been certified by the Nurse-Family Partnership to provide training.

(g) "Department" means the State Department of Health Services, unless otherwise designated.

SEC. 3. Section 123491 is added to the Health and Safety Code, to read:

123491. (a) There is hereby established a voluntary nurse home visiting grant program for expectant first-time mothers, their children, and their families, to be administered by the department pursuant to

Section 123492. The program may be cited as the Nurse-Family Partnership program.

(b) The goals and objectives of the program shall be the same as, but shall not be limited to, those in the community-based comprehensive perinatal health care system as set forth in Section 123505.

(c) The department shall adopt regulations for the implementation of this section in accordance with Section 123516.

SEC. 4. Section 123492 is added to the Health and Safety Code, to read:

123492. The department shall develop a grant application and award grants on a competitive basis to counties for the startup, continuation, and expansion of the program established pursuant to Section 123491. To be eligible to receive a grant for purposes of that section, a county shall agree to all of the following:

(a) Serve through the program only pregnant, low-income women who have had no previous live births. Notwithstanding subdivision (b) of Section 123485, women who are juvenile offenders or who are clients of the juvenile system shall be deemed eligible for services under the program.

(b) Enroll women in the program while they are still pregnant, before the 28th week of gestation, and preferably before the 16th week of gestation, and continue those women in the program through the first two years of the child's life.

(c) Use as home visitors only registered nurses who have been licensed in the state.

(d) Have nurse home visitors undergo training according to the program and follow the home visit guidelines developed by the Nurse-Family Partnership program.

(e) Have nurse home visitors specially trained in prenatal care and early child development.

(f) Have nurse home visitors follow a visit schedule keyed to the developmental stages of pregnancy and early childhood.

(g) Ensure that, to the extent possible, services shall be rendered in a culturally and linguistically competent manner.

(h) Limit a nurse home visitor's caseload to no more than 25 active families at any given time.

(i) Provide for every eight nurse home visitors a full-time nurse supervisor who holds at least a bachelor's degree in nursing and has substantial experience in community health nursing.

(j) Have nurse home visitors and nurse supervisors trained in effective home visitation techniques by qualified trainers.

(k) Have nurse home visitors and nurse supervisors trained in the method of assessing early infant development and parent-child interaction in a manner consistent with the program.

(*l*) Provide data on operations, results, and expenditures in the formats and with the frequencies specified by the department.

(m) Collaborate with other home visiting and family support programs in the community to avoid duplication of services and complement and integrate with existing services to the extent practicable.

(n) Demonstrate that adoption of the Nurse-Family Partnership program is supported by a local governmental or government-affiliated community planning board, decisionmaking board, or advisory body responsible for assuring the availability of effective, coordinated services for families and children in the community.

(o) Provide cash or in-kind matching funds in the amount of 100 percent of the grant award.

(p) Prohibit the use of moneys received for the program as a match for grants currently administered by the department.

SEC. 5. Section 123493 is added to the Health and Safety Code, to read:

123493. (a) The department may accept voluntary contributions, in cash or in-kind, to pay for the costs in the implementation of the program under Section 123492. These private donations shall be deposited into the California Families and Children Account, which is hereby created in the State Treasury, in which, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the department for purposes of implementing Section 123492. No state funds shall be used in implementing Section 123492.

(b) The department shall only distribute grants established under Section 123492 if the Director of Finance determines, in writing, that there are sufficient funds from private donations available in the account for expenditure for the purposes of the program.

(c) The department's administration costs shall not exceed 5 percent of the moneys in the account created under subdivision (a). Any costs to the department incurred prior to the account receiving funds shall be reimbursed to the department from funds in the account.

(d) The department shall not apply for grants or solicit private funds.

(e) If, as of January 1, 2009, the Director of Finance determines pursuant to subdivision (a) that there are insufficient funds on deposit in the account to implement the voluntary nurse home visiting grant program, the account shall cease to exist.

SEC. 6. Section 123516 is added to the Health and Safety Code, to read:

123516. (a) The department, in consultation with the program administrators, may contract with one or more qualified organizations to assist the department in ensuring that grantees implement the program as established under Section 123491 and to conduct an annual evaluation of the implementation of the grant program on a statewide basis. The first evaluation shall be due 12 months after the award of grants pursuant to Section 123492.

(b) (1) In conducting its monitoring and evaluation activities, the department shall be guided by program performance standards developed by the department in consultation with the Nurse-Family Partnership program.

(2) The department shall submit the results of each annual evaluation to the Governor and the appropriate policy and fiscal committees of each house of the Legislature.

(3) The annual evaluation shall contain, but not be limited to, the extent to which each grantee participating in the program has done each of the following:

(A) Recruited a population of low-income, first-time mothers.

(B) Enrolled families early in pregnancy and followed them through the second birthday of the child.

(C) Conducted visits that are of comparable frequency, duration, and content as those delivered in the randomized clinical trials of the program.

(D) Assessed the health and well-being of the mothers and children enrolled in the program according to common indicators of maternal, child, and family health.

SEC. 7. If there are not sufficient funds on deposit in the California Families and Children Account, established pursuant to subdivision (a) of Section 123493 of the Health and Safety Code by January 1, 2009, the account shall cease to exist.

CHAPTER 879

An act to add Sections 25242 and 25243 to the Business and Professions Code, relating to alcoholic beverages.

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

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

SECTION 1. Section 25242 is added to the Business and Professions Code, to read:

25242. (a) (1) The Legislature finds and declares that for more than a century, certain California counties have been widely recognized for producing grapes and wine of the highest quality. Both consumers and the wine industry associate the names of those counties with the distinctive wine produced from grapes grown within those counties. If producers were to use the names of these counties on labels, for packaging materials, and in advertising for wines that are not made from grapes grown in the designated counties, consumers may be confused or deceived by these practices.

(2) It is the intent of the Legislature to assure consumers that the wines produced or sold in the state with brand names, packaging materials, or advertising that mention or refer to these California counties, in fact accurately reflect the origin of the grapes used to make the referenced wine.

(b) (1) No wine produced, bottled, labeled, offered for sale or sold in California shall use, in a brand name or otherwise, on any label, packaging material, or advertising, the name of viticultural significance listed in subdivision (c), unless that wine qualifies under Section 4.25 of Title 27 of the Code of Federal Regulations for an appellation of origin that is either Sonoma County or a viticultural area lying entirely within Sonoma County and includes that appellation of origin on the label, packaging material, and advertising for the wine.

(2) Notwithstanding paragraph (1), this subdivision shall not grant any labeling, packaging, or advertising rights that are prohibited under federal law or regulations.

(c) The following name is of viticultural significance for purposes of this section:

(1) Sonoma.

(2) Any similar name to that in paragraph (1) that is likely to cause confusion as to the origin of the wine.

(d) The appellation of origin required by this section shall meet the legibility and size-of-type requirements set forth in either Section 4.38 or Section 4.63 of Title 27 of the Code of Federal Regulations, whichever is applicable.

(e) Notwithstanding subdivision (b), any name of viticultural significance may appear either as part of the address required by Sections 4.35 and 4.62 of Title 27 of the Code of Federal Regulations, if it is also the post office address of the bottling or producing winery or of the permittee responsible for the advertising, or as part of any factual, nonmisleading statement as to the history or location of the winery.

(f) The department may suspend or revoke the license of any person who produces or bottles wine who violates this section. Following notice of violation to the person in possession of the wine and a hearing to be

held within 15 days thereafter, if requested by any interested party within five days following the notice, the department may seize wine labeled or packaged in violation of this section regardless of where found, and may dispose of the wine upon order of the department. From the time of notice until the departmental determination, the wine shall not be sold or transferred.

(g) This section applies only to wine which is produced, bottled, or labeled after December 31, 2008.

(h) This section does not pertain to the use of a brand name, or otherwise, which was the name of the winery owner as established prior to 1950.

SEC. 2. Section 25243 is added to the Business and Professions Code, to read:

25243. No provision of this article shall preclude a wine from using, on any label, packaging material, or advertising, either (a) a truthful, nonmisleading appellation of origin that complies with Section 4.25(c) of Title 27 of the Code of Federal Regulations governing multicounty appellations, or (b) a truthful, nonmisleading statement as to the geographic location of the wine's stated appellation or appellations of origin which is located in not more than two counties, for which the wine qualifies under applicable federal law, or both the appellation of origin and the statement of geographic location; provided that the label, packaging material, or advertising contains no other use of a name of viticultural significance, in a brand name or otherwise, that is prohibited by Section 25241 or 25242.

CHAPTER 880

An act to amend Sections 33370, 33380, 33381, 33382, 33383, and 62000.14 of the Education Code, relating to education.

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

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

SECTION 1. Section 33370 of the Education Code is amended to read:

33370. (a) There is hereby created within the department an American Indian Education Unit, which shall provide technical support to, and proper administrative oversight of, American Indian education programs established by the state in order to ensure that American Indian

pupils in California public schools are able to meet the challenging academic standards of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and that those programs reflect the cultural and educational standards stated in Executive Order No. 13336, 69 Federal Register 25295 (May 5, 2004), relating to American Indian and Alaska Native Education.

(b) The Superintendent shall appoint an American Indian Education Unit Manager who shall oversee the American Indian Education Unit.

(c) The duties of the American Indian Education Unit shall include, development of clear, consistent, and effective operating policies and procedures that include measures to ensure that the learning needs of American Indian pupils are being adequately addressed.

(d) The department shall ensure that staff are properly trained in the application of the policies adopted pursuant to subdivision (c) and that the policies are consistent with the legislative intent relating to the American Indian Education Program and with Section 11019.6 of, subdivisions (d) and (f) of Section 11340 of, and Section 11342.2 of, the Government Code.

(e) The department shall prescribe the following:

(1) The data that California American Indian education centers shall report on an annual basis in order to measure program performance.

(2) On or before January 1, 2011, the department shall conduct an evaluation of the centers to determine whether to renew the application of each existing center or instead to approve an application to establish a new center.

(3) A description of the consequences for failing to submit the data.

(f) The department shall adopt policies that include:

(1) An equitable process that will be used to select centers that will receive grant awards and determine their respective funding amounts.

(2) Establish a prompt timeframe for disbursing approved payments to the centers.

(3) A monitoring process and plan to ensure that fiscal and program information reported by the centers is accurate and complete, including a process for corrective action and investigation by the department for noncompliance. The process shall be based upon consistent and equitable principles.

(4) The incorporation of culturally responsive methodologies in order to ensure that an optimal educational program for American Indian pupils is supported and maintained.

(5) Ensuring respect for the federal trust and sovereign nation status of California American Indian tribes.

(g) The Superintendent, with input from existing center directors, shall appoint an American Indian Education Oversight Committee by

January 30, 2007, composed of at least seven educators, four of whom shall be American Indian education center directors. All members shall possess proven knowledge of current educational policies relating to, and issues faced by, American Indian communities in California. This committee shall provide input and advice to the Superintendent on all aspects of American Indian education programs established by the state.

SEC. 2. Section 33380 of the Education Code is amended to read:

33380. The Legislature hereby finds and declares that American Indian children have not performed well in California public schools as evidenced by low academic achievement at all grade levels, high dropout rates, and by the low number of pupils achieving a higher education. It is the intent and purpose of the Legislature to establish community-based programs that promote the educational achievement of American Indian pupils attending public schools throughout the state. The department shall provide proper guidance and effective administrative support to California American Indian education centers that recognize the unique cultural and historical needs of American Indian pupils and support the need to preserve the languages, cultures, and social structures of tribal communities.

SEC. 3. Section 33381 of the Education Code is amended to read:

33381. The California American Indian education centers established pursuant to this article shall serve as community-based educational resource centers to American Indian pupils, parents, guardians, and the public schools in order to promote the academic and cultural achievement of the pupils. The centers, based upon established priority needs, may accomplish the following:

(a) Improve the academic achievement of American Indian pupils in kindergarten and grades 1 to 12, inclusive.

(b) Improve the self-concept and sense of identity of American Indian pupils and adults.

(c) Serve as a center for related community activities.

(d) Provide individual and group counseling to pupils and adults related to personal adjustment, academic progress, and vocational planning.

(e) Create and offer coordinated programs with the public schools.

(f) Provide a focus for summer cultural, recreational, and academic experiences.

(g) Create and offer adult classes and activities that benefit parents or guardians of pupils in its programs.

(h) Provide training programs to develop pathways to college and the workplace for American Indian pupils.

(i) Provide American Indian educational resource materials to pupils, their parents, and the schools they attend in order to ensure appropriate tribal histories and cultures are made available.

SEC. 4. Section 33382 of the Education Code is amended to read:

33382. The state board, upon the advice and recommendations of the Superintendent, shall approve revised guidelines for the selection and administration of California American Indian education centers. The amendments and updates to the 1975 guidelines shall require the input of, and majority approval by, the American Indian Education Oversight Committee prior to the submission of the guidelines to the state board.

SEC. 5. Section 33383 of the Education Code is amended to read:

33383. (a) An application for the establishment of a California American Indian education center may be made to the department by any tribal group or incorporated American Indian association, separately or jointly, upon forms provided by the department. The department shall determine the funding levels for each center and any new programs to be created. The department shall consider recommendations made by an advisory committee regarding center funding levels. The advisory committee shall meet at least four times annually, including once before applications for funding are made available by the department. To the extent practicable, the department shall use an existing advisory committee for the purpose of making recommendations regarding center funding levels. Funding for existing centers or any new center shall not exceed funding provided for these purposes in the annual Budget Act or another statute. The department shall evaluate and rank the proposals for funding purposes.

(b) An application for funding by a California American Indian education center shall be ranked and approved on the basis of all of the following criteria:

(1) The application is designed to achieve measurable objectives for the center.

(2) The applicant's degree of commitment to the purpose of American Indian education as demonstrated by the policies adopted, the allocation of staff, fiscal, and material resources, and the integration of existing resources and services.

(3) The extent and degree of collaborative efforts among local community resources, organizations, schools, and tribal communities.

(4) The potential impact a center will have on pupils, their families, and other organizations in the region.

(5) The number of pupils in kindergarten and grades 1 to 12, inclusive, within the applicant's community.

(6) Existing centers shall have priority based upon the demonstrated impact of each program on pupils, parents and the community served.

(7) Existing centers created by the department shall receive priority in funding.

(8) The application of an existing center shall receive priority for funding over any application for a new center.

(c) The funding level for each center shall be based upon a comprehensive community needs assessment, including the applicant's history of educational support for American Indian pupils, their parents or guardians, and the amount of collaboration with local American Indians.

(d) Funding for each center shall be distributed by reference to pupil population, pupil academic performance, and the local economic base.

(e) To the extent possible, the centers shall be distributed in regions throughout the state in order to reflect the American Indian population base.

(f) Funding may be carried forward from a previous fiscal year for use during the subsequent summer months if deemed necessary by the department to carry out the purposes of the American Indian education programs.

(g) The approval of an application for the establishment of a California American Indian education center shall be effective for a period of five calendar years. One calendar year before the expiration of the five-year period, the department shall commence an evaluation of the center in order to determine whether to renew the existing center's application or approve a new application to establish a California American Indian education center.

(h) (1) If the application for a center has been approved by the department and the applicant has received written verification of that approval, the department shall distribute 75 percent of the grant award for each year of the grant no later than 45 days after enactment of the annual Budget Act or any additional authorizing statute, whichever is later.

(2) The department shall distribute the remaining 25 percent of the grant award for each year of the grant no later than April 1 of the year following the year in which the initial 75 percent is distributed pursuant to paragraph (1).

SEC. 6. Section 62000.14 of the Education Code is amended to read:

62000.14. (a) The California American Indian Education Center Program shall sunset on January 1, 2012.

(b) (1) Each center shall annually submit a report to the department that includes appropriate data, presented in a format developed jointly with the department, that reflects each center's ability to meet its stated objectives, measure pupil academic performance, and meets the continued educational and cultural needs of the community that the center serves.

(2) On or before January 1, 2011, the department shall report consolidated results for all centers and supply information that is required for a comprehensive evaluation of those results, and make recommendations for program improvement.

(c) The centers shall maintain sound fiscal policies. The department shall provide technical assistance and training to the centers in order to assist the centers to maintain sound fiscal policies. The department may require an annual program audit, however, if the department deems it fiscally unsound for the centers to provide an annual audit, a fiscal review shall suffice.

(d) The department shall provide technical assistance and professional development to the directors of the California American Indian education centers throughout the year that shall include timely documented responses and professional guidance meant to improve center programs.

CHAPTER 881

An act to amend Section 375 of, and to add Section 25353 to, the Vehicle Code, relating to vehicles.

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

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

SECTION 1. Section 375 of the Vehicle Code is amended to read:

375. "Lighting equipment" is any of the following lamps or devices:

(a) A headlamp, auxiliary driving, passing, or fog lamp, fog taillamp, taillamp, stoplamp, supplemental stoplamp, license plate lamp, clearance lamp, side marker lamp, signal lamp or device, supplemental signal lamp, deceleration signal device, cornering lamp, running lamp, red, blue, amber, or white warning lamp, flashing red schoolbus lamp, side-mounted turn signal lamp, and schoolbus side lamp.

(b) An operating unit or canceling mechanism for turn signal lamps or for the simultaneous flashing of turn signal lamps as vehicular hazard signals, and an advance stoplamp switch.

(c) A flasher mechanism for turn signals, red schoolbus lamps, warning lamps, the simultaneous flashing of turn signal lamps as vehicular hazard signals, and the headlamp flashing systems for emergency vehicles.

(d) Any equipment regulating the light emitted from a lamp or device or the light sources therein.

(e) A reflector, including reflectors for use on bicycles, and reflectors used for required warning devices.

(f) An illuminating device that emits radiation predominantly in the infrared or ultraviolet regions of the spectrum, whether or not these emissions are visible to the unaided eye.

(g) An illuminated sign installed on a bus that utilizes an electronic display to convey the route designation, route number, run number, public service announcement, or any combination of these information.

SEC. 2. Section 25353 is added to the Vehicle Code, to read:

25353. (a) Notwithstanding Sections 25400 and 25950, a bus operated by a publicly owned transit system on regularly scheduled service may be equipped with illuminated signs that include destination signs, route-number signs, run-number signs, public service announcement signs, or a combination thereof, visible from any direction of the vehicle, that emit any light color, other than the color red emitted from forward-facing signs, pursuant to the following conditions:

(1) Each illuminated sign shall emit diffused nonglaring light.

(2) Each illuminated sign shall be limited in size to a display area of not greater than 720 square inches.

(3) Each illuminated sign shall not resemble nor be installed in a position that interferes with the visibility or effectiveness of a required lamp, reflector, or other device upon the vehicle.

(4) Each illuminated sign shall display information directly related to public transit service, including, but not limited to, route number, destination description, run number, and public service announcements.

(5) The mixing of individually colored light emitting diode elements, including red, is allowed as long as the emitted color formed by the combination of light emitting diode elements is not red.

(b) (1) An illuminated sign may be operated as a dynamic message sign in a paging or streaming mode.

(2) The following definitions shall govern the construction of paragraph (1):

(A) "Paging," meaning character elements or other information presented for a period of time and then disappearing all at once before the same or new elements are presented, is permitted if the display time of each message is between 2.7 and 10 seconds. Blanking times between each message shall be between 0.5 and 25 seconds.

(B) "Streaming," meaning character elements or other information moving smoothly and continuously across the display, is permitted if the character movement time, from one end of the display to the other, is at least 2.7 seconds, and the movement time of the entire message does not exceed 10 seconds.

(c) A regulation adopted pursuant to this section shall comply with applicable federal law, including, but not limited to, the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

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 882

An act to amend Section 21157 of the Public Resources Code, relating to environmental quality.

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

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

SECTION 1. Section 21157 of the Public Resources Code is amended to read:

21157. (a) A master environmental impact report may be prepared for any one of the following projects:

(1) A general plan, element, general plan amendment, or specific plan.

(2) A project that consists of smaller individual projects that will be carried out in phases.

(3) A rule or regulation that will be implemented by subsequent projects.

(4) A project that will be carried out or approved pursuant to a development agreement.

(5) A public or private project that will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.

(6) A state highway project or mass transit project that will be subject to multiple stages of review or approval.

(7) A regional transportation plan or congestion management plan.

(8) A plan proposed by a local agency for the reuse of a federal military base or reservation that has been closed or that is proposed for closure.

(9) Regulations adopted by the Fish and Game Commission for the regulation of hunting and fishing.

(10) A plan for district projects to be undertaken by a school district, that also complies with applicable school facilities requirements, including, but not limited to, the requirements of Chapter 12.5 (commencing with Section 17070.10) of Part 10 of, and Article 1 (commencing with Section 17210) of Chapter 1 of Part 10.5 of, Division 1 of Title 1 of the Education Code.

(b) When a lead agency prepares a master environmental impact report, the document shall include all of the following:

(1) A detailed statement as required by Section 21100.

(2) A description of anticipated subsequent projects that would be within the scope of the master environmental impact report, that contains sufficient information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to, all of the following:

(A) The specific type of project anticipated to be undertaken.

(B) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area.

(C) The anticipated location and alternative locations for any development projects.

(D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.

(3) A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.

(c) Lead agencies may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a master environmental impact report.

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

CHAPTER 883

An act to amend Section 19605.75 of the Business and Professions Code, relating to horse racing, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 19605.75 of the Business and Professions Code is amended to read:

19605.75. (a) The Legislature finds and declares that the existence of high caliber thoroughbred racing in California is important to this state's agricultural economy. The California horse racing industry is being threatened by the escalating costs of doing business in California, including, but not limited to, workers' compensation insurance costs, in that these costs are not only causing thoroughbred horses and trainers to leave this state, but are also discouraging owners and trainers from bringing horses into this state to compete. It is the intent of the Legislature to provide some relief from these escalating costs through the redistribution of the parimutuel handle on exotic wagers.

(b) Notwithstanding Section 19610, every thoroughbred association and fair that conducts a racing meet shall deduct an additional 0.5 percent of the total amount handled in exotic parimutuel pools of thoroughbred races.

(c) The funds collected pursuant to subdivision (b) from exotic parimutuel pools on thoroughbred races within the inclosure of a thoroughbred association or fair conducting a race meeting, at satellite wagering facilities within this state, and through advance deposit wagering by residents of this state, shall be distributed to the organization described in subdivision (f) to be used in accordance with subdivision (e).

(d) Any thoroughbred association or fair that authorizes a betting system located outside of this state to accept exotic wagers on its races and to combine those wagers in the association's or fair's exotic parimutuel pools, including, but not limited to, a multijurisdictional wagering hub as to exotic wagers made by residents other than those of this state, shall deduct the amount specified in subdivision (b) in addition to any other applicable deductions specified in law. The amount deducted pursuant to this subdivision shall be distributed to the organization described in subdivision (f) to be used in accordance with subdivision

(e). This additional deduction shall not be included in the amount on which license fees are determined pursuant to Section 19602.

(e) The amounts distributed to the organization described in subdivision (f) shall be deposited by that organization in a separate account to defray the costs of workers' compensation insurance incurred in connection with thoroughbred horses that race in this state at thoroughbred associations and racing fairs through the payment of supplemental premiums that reduce rates, payment to or for the benefit of trainers and owners of such thoroughbreds, based on the number of such thoroughbreds they start, in order to reimburse them for the costs of workers' compensation insurance directly or indirectly incurred by them, and other appropriate payments. Any funds that are not used for the purposes set forth in this subdivision shall, after an affirmative vote of at least 25 of the voting interests of the organization described in subdivision (f), either be carried forward to the subsequent year, or be used to reimburse racing associations for the actual cost of health and safety programs, research or safety equipment, or making capital improvements that are designed to prevent workplace accidents and increase the safety of jockeys, exercise riders, backstretch employees, and other racetrack personnel. Those capital improvements shall include, but not be limited to, safety improvements to racing and training surfaces. All requests for reimbursements shall be approved by the board. In developing proposals for approval by the board, the association shall confer with their horsemen's organizations and all affected labor organizations or associations.

(f) The thoroughbred racing associations and the owners' organization described in subdivision (b) of Section 19613 shall form an organization to which funds shall be distributed pursuant to subdivisions (c) and (d). This organization shall have a total of 34 voting interests, of which 16 shall be allocated to the organization representing thoroughbred owners pursuant to Section 19613, one shall be allocated to the official registering agency for thoroughbreds in California, and one shall be allocated to the organization representing thoroughbred trainers pursuant to Section 19613. The remaining 16 votes shall be allocated among the licensed racing associations and racing fairs in the state. Each racing association and fair shall receive the portion of these remaining votes represented by the sum of exotic wagering on its races divided by the statewide total of exotic wagering in the preceding calendar year, excluding Breeders Cup races. Fractional voting shall be permitted. Any decision of this organization with respect to the allocation of funds pursuant to subdivisions (c) and (d) shall require the affirmative vote of 25 of these voting interests. In the event that the required number of affirmative votes cannot be obtained, the matter shall be submitted to the California

Horse Racing Board for a decision consistent with subdivision (e), and the decision of the board shall be final.

(g) (1) The organization formed pursuant to this section shall account annually to the California Horse Racing Board with respect to the expenditure and distribution of funds received by the organization pursuant to subdivisions (c) and (d), and shall obtain an independent audit of fund generation and distribution. A copy of the completed audit shall be forwarded to the California Horse Racing Board within 45 days of its receipt by the organization.

(2) No earlier than 18 months and no later than two years following the effective date of this section, the organization described in subdivision (f) shall commission an independent evaluation of the effectiveness of the distributions under this section along with recommendations for any improvements or modifications regarding the program created in this section. A copy of that evaluation along with a report detailing the organization's response to the evaluation shall be filed with the California Horse Racing Board within 30 days of the receipt of the final evaluation.

(h) Between January 1, 2009, and July 1, 2009, any unexpended funds collected under this section shall be distributed to organizations formed and operated pursuant to Sections 19607 and 19607.2 based upon the total thoroughbred handle in their respective zones in the year 2008.

(i) Except for subdivision (h), this section shall become inoperative on January 1, 2009, and as of January 1, 2010, this entire section 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:

In order to codify, as soon as possible, provisions of regulations that have been promulgated, it is necessary that this act take effect immediately.

CHAPTER 884

An act to add Chapter 6 (commencing with Section 13974.5) to Part 4 of Division 3 of Title 2 of the Government Code, relating to victims of crime, making an appropriation therefor, and declaring the urgency thereof to take effect immediately.

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

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

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

(a) Without treatment, approximately 50 percent of people who survive a traumatic, violent injury experience psychological or social difficulties. Untreated psychological trauma often has severe economic consequences, including overuse of costly medical services, loss of income, failure to return to gainful employment, loss of medical insurance, and loss of stable housing.

(b) The Trauma Recovery Center at San Francisco General Hospital/University of California, San Francisco, is an award-winning, nationally recognized program created in 2001 in partnership with the State of California Victim Compensation and Government Claims Board. The center was established as a four-year pilot project to develop and test a comprehensive model of care as an alternative to fee-for-service care reimbursed by victim restitution funds. It was designed to increase access for crime victims to these funds.

(c) During the Trauma Recovery Center's four-year history, its accomplishments include:

(1) Identifying and treating 854 crime victims.

(2) Increasing the rate by which sexual assault victims received mental health followup services, from 6 percent to 71 percent.

(3) Successfully linking 53 percent of patients to legal services, 40 percent to vocational services, 31 percent to safer and more permanent housing, and 22 percent to other financial entitlements.

(4) Improving cooperation with police, including an increase in police reports filed by sexual assault victims from 42 percent to 71 percent.

(5) Increasing return to employment by 56 percent of victims compared to victims who did not have Trauma Recovery Center services. Many of these people resumed paying taxes and escaped the spiral into bankruptcy, loss of housing, and loss of medical insurance.

SEC. 2. Chapter 6 (commencing with Section 13974.5) is added to Part 4 of Division 3 of Title 2 of the Government Code, to read:

Chapter 6. Victims of Crime Recovery Center

13974.5. (a) The California Victim Compensation and Government Claims Board shall enter into an interagency agreement with the University of California, San Francisco, to establish a victims of crime recovery center at the San Francisco General Hospital for the purpose of providing comprehensive and integrated services to victims of crime, subject to conditions set forth by the board.

(b) This section shall not apply to the University of California unless the Regents of the University of California, by appropriate resolution, make this section applicable.

(c) This section shall only be implemented to the extent that funding is appropriated for that purpose.

SEC. 3. The sum of one million three hundred thousand dollars ($1,300,000) for the fiscal year commencing July 1, 2006, is hereby appropriated from the Restitution Fund to the California Victim Compensation and Government Claims Board for the implementation of the interagency agreement specified in Section 13974.5 of the Government Code for the purpose of continued funding for the Trauma Recovery Center at the San Francisco General Hospital.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the uninterrupted provision of vital services to victims of trauma, it is necessary that this act take effect immediately.

CHAPTER 885

An act to amend Sections 765.5, 7604, and 7711 of, and to add Sections 1202.7, 7663, and 7711.1 to, the Public Utilities Code, relating to railroads, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 765.5 of the Public Utilities Code is amended to read:

765.5. (a) The purpose of this section is to provide that the commission takes all appropriate action necessary to ensure the safe operation of railroads in this state.

(b) The commission shall dedicate sufficient resources necessary to adequately carry out the State Participation Program for the regulation of rail transportation of hazardous materials as authorized by the Hazardous Material Transportation Uniform Safety Act of 1990 (P.L. 101-615).

(c) On or before July 1, 1992, the commission shall hire a minimum of six additional rail inspectors who are or shall become federally

certified, consisting of three additional motive power and equipment inspectors, two signal inspectors, and one operating practices inspector, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.

(d) On or before July 1, 1992, the commission shall establish, by regulation, a minimum inspection standard to ensure, at the time of inspection, that railroad locomotives, equipment, and facilities located in class I railroad yards in California will be inspected not less frequently than every 120 days, and inspection of all branch and main line track not less frequently than every 12 months.

(e) Commencing July 1, 2008, in addition to the minimum inspections undertaken pursuant to subdivision (d), the commission shall conduct focused inspections of railroad yards and track, either in coordination with the Federal Railroad Administration, or as the commission determines to be necessary. The focused inspection program shall target railroad yards and track that pose the greatest safety risk, based on inspection data, accident history, and rail traffic density.

SEC. 2. Section 1202.7 is added to the Public Utilities Code, to read:

1202.7. Whenever existing automatic grade-crossing safety signal equipment that was installed within the previous 10 years is planned for removal due to upgrade or closure projects undertaken pursuant to Section 130 of Title 23 of the United States Code, and the commission determines that it will meet the same performance criteria and inspection standards as new equipment and therefore be safe to use, the signal equipment shall be made available to the following:

(a) With the consent of the participating railroad, to a state agency designated by the commission, for storage and potential use at a railroad crossing currently nominated by the commission for funding to eliminate hazards of railway-highway crossings pursuant to Section 130 of Title 23 of the United States Code.

(b) To other railroads for use at other railway-highway crossings within the state.

SEC. 3. Section 7604 of the Public Utilities Code is amended to read:

7604. (a) (1) Except as provided in paragraph (3), a bell, siren, horn, whistle, or similar audible warning device shall be sounded at any public crossing in accordance with Section 222.21 of Title 49 of the Code of Federal Regulations.

(2) Except as provided in paragraph (3), a bell, siren, horn, whistle, or similar audible warning device shall be sounded, consistent with paragraph (1), at all rail crossings not subject to the requirements of Subpart B (commencing with Section 222.21) of Part 222 of Title 49 of the Code of Federal Regulations.

(3) A bell, siren, horn, whistle, or similar audible warning device shall not be sounded in those areas established as quiet zones pursuant to Subpart C (commencing with Section 222.33) of Part 222 of Title 49 of the Code of Federal Regulations.

(4) This section does not restrict the use of a bell, siren, horn, whistle, or similar audible warning device during an emergency or other situation authorized in Section 222.23 of Title 49 of the Code of Federal Regulations.

(b) Any railroad corporation violating this section shall be subject to a penalty of two thousand five hundred dollars ($2,500) for every violation. The penalty may be recovered in an action prosecuted by the district attorney of the proper county, for the use of the state. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train, or cars, when the provisions of this section are not complied with.

SEC. 4. Section 7663 is added to the Public Utilities Code, to read:

7663. Whenever the Department of the California Highway Patrol or a designated local public safety agency responds to a railroad accident, the accident shall be reported to the Office of Emergency Services.

SEC. 5. Section 7711 of the Public Utilities Code is amended to read:

7711. The commission shall annually report to the Legislature, on or before July 1, on sites on railroad lines in the state it finds to be hazardous. The report shall include, but not be limited to, information on all of the following:

(a) A list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous five years. The list shall describe the nature and probable causes of the accidents, if known, and shall indicate whether the accidents occurred at or near sites that the commission has determined, pursuant to subdivision (b), pose a local safety hazard.

(b) A list of all railroad sites in the state that the commission determines, pursuant to Section 20106 of Title 49 of the United States Code, pose a local safety hazard. The commission may submit in the annual report the list of railroad sites submitted in the immediate prior year annual report, and may amend or revise that list from the immediate prior year as necessary. Factors that the commission shall consider in determining a local safety hazard may include, but need not be limited to, all of the following:

(1) The severity of grade and curve of track.

(2) The value of special skills of train operators in negotiating the particular segment of railroad line.

(3) The value of special railroad equipment in negotiating the particular segment of railroad line.

(4) The types of commodities transported on or near the particular segment of railroad line.

(5) The hazard posed by the release of the commodity into the environment.

(6) The value of special railroad equipment in the process of safely loading, transporting, storing, or unloading potentially hazardous commodities.

(7) The proximity of railroad activity to human activity or sensitive environmental areas.

(8) A list of the root causes and significant contributing factors of all train accidents or derailments investigated.

(c) In determining which railroad sites pose a local safety hazard pursuant to subdivision (b), the commission shall consider the history of accidents at or near the sites. The commission shall not limit its determination to sites at which accidents have already occurred, but shall identify potentially hazardous sites based on the criteria enumerated in subdivision (b) and all other criteria that the commission determines influence railroad safety. The commission shall also consider whether any local safety hazards at railroad sites have been eliminated or sufficiently remediated to warrant removal of the site from the list required under subdivision (b).

SEC. 6. Section 7711.1 is added to the Public Utilities Code, to read:

7711.1. The commission shall collect and analyze near-miss data generated from incidents occurring at railroad crossings and along the rail right-of-way. For purposes of this section, "near-miss" includes a runaway train or any other uncontrolled train movement that threatens public health and safety reported to the commission pursuant to Section 7661.

SEC. 7. 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. 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:

Five train derailments have occurred in less than two years, three of them occurring in the span of one month. This is part of a disturbing trend across California. The number of train accidents has increased exponentially since 1997. In 1997, there were 105 train accidents. By 2003, there were 187. In 2005 the state was projected to have 228 train accidents. Because there is a need to resolve this problem now, in order to keep Californians safe, it is necessary that this act go into immediate effect.

CHAPTER 886

An act to amend Sections 290.46, 1202.8, and 3004 of, and to repeal Sections 290.04. 290.05, and 290.06 of, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 290.04 of the Penal Code, as added by Senate Bill No. 1178, is repealed.

SEC. 2. Section 290.05 of the Penal Code, as added by Senate Bill No. 1178, is repealed.

SEC. 3. Section 290.06 of the Penal Code, as added by Senate Bill No. 1178, is repealed.

SEC. 4. 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 subdivisions (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 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 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 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 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 release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state 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. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(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, 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 288.5.

(J) Subdivision (a) or (j) of Section 289.

(K) 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 647.6.

(H) 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 both of the following:

(I) The offender was the victim's parent, stepparent, sibling, or grandparent.

(II) 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 both of the following:

(I) The offender was the victim's parent, stepparent, sibling, or grandparent.

(II) 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.

(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.

SEC. 4.1. 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 subdivisions (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 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 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 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 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 release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state 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. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(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, 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 288.5.

(J) Subdivision (a) or (j) of Section 289.

(K) 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 647.6.

(H) 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 both of the following:

(I) The offender was the victim's parent, stepparent, sibling, or grandparent.

(II) 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 both of the following:

(I) The offender was the victim's parent, stepparent, sibling, or grandparent.

(II) 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.

(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. This authorization does not create a duty to use the information.

(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.

SEC. 4.2. 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 subdivisions (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 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 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 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 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 release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state 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. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) 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) Subdivision (a) or (j) of Section 289.

(L) Section 288.7.

(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. 4.3. 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 subdivisions (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 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 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 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 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 release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state 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. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) 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) Subdivision (a) or (j) of Section 289.

(L) Section 288.7.

(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. This authorization does not create a duty to use the information.

(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. 5. Section 1202.8 of the Penal Code, as amended by Senate Bill No. 1178, 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 January 1, 2009, every person who has been assessed with the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) pursuant to Sections 290.04 to 290.06, inclusive, and who has a SARATSO risk level 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, and every two years thereafter, each probation department shall report to the Corrections Standard Authority all relevant statistics and relevant information regarding 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. The Corrections Standard Authority shall compile the reports and submit a single report to the Legislature and the Governor every two years through 2017.

SEC. 6. Section 3004 of the Penal Code, as amended by Senate Bill No. 1178, 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) Commencing January 1, 2009, every person who has been assessed with the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) pursuant to Sections 290.04 to 290.06, inclusive, and who has a SARATSO risk level 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 through 2017, the Department of Corrections and Rehabilitation shall report to the Legislature and to the Governor all relevant statistics and relevant information regarding 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. 7. (a) Section 4.1 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by both this bill and AB 2712. 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) SB 1128 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2712, in which case Section 290.46 of the Penal Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of AB 2712, at which time Section 4.1 of this bill shall become operative and Sections 4.2 and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by both this bill and SB 1128. 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 290.46 of the Penal Code, (3) AB 2712 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1128 in which case Section 290.46 of the Penal Code as amended by SB 1128, shall remain operative only until the operative date of this bill, at which time Section 4.2 of this bill shall become operative, and Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by this bill, AB 2712, and SB 1128. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2007, (2) all three bills amend Section 290.46 of the Penal Code, and (3) this bill is enacted after AB 2712 and SB 1128, in which case Section 290.46 of the Penal Code as amended by SB 1128, shall remain operative only until the operative date of this bill, at which time Section 4.2 of this bill shall become operative and shall remain operative only until the operative date of AB 2712, at which time Section 4.3 of this bill shall become operative, and Sections 4 and 4.1 of this bill shall not become operative.

SEC. 8. 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. 9. This bill shall only become operative if Senate Bill 1128 of the 2005–06 Regular Session is also enacted and becomes effective on or before January 1, 2007.

SEC. 10. Sections 1, 2, 3, 5, and 6 of this act shall become operative only if Senate Bill No. 1178 is also enacted and this act is enacted after Senate Bill 1178.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the public safety of California families and their children and to ensure that the Megan's Law database provides adequate information about registered sex offenders living in California, it is necessary that this act take effect immediately.

CHAPTER 887

An act to amend Section 60200 of, and to add Section 60200.1 to, the Education Code, relating to instructional materials.

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

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

SECTION 1. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(2) Mathematics. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (5), inclusive, of

subdivision (a) not less than two times every six years and in any of the subject areas pursuant to paragraph (6) of subdivision (a) not less than two times every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with the six- and eight-year submission cycles and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c). The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Adequately cover the subject area for the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of Chapter 1181 of the Statutes of 1989, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad

spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the board for continuing items on that list shall be the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(*l*) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 1.5. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(2) Mathematics. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) not less than two times every six years and in any of the subject areas pursuant to paragraph (6) of subdivision (a) not less than two times every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with the six- and eight-year submission cycles and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c) and Section 60200.7. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Adequately cover the subject area for the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of Chapter 1181 of the Statutes of 1989, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the board for continuing items on that list shall be the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or

multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(*l*) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 2. Section 60200.1 is added to the Education Code, to read:

60200.1. The instructional materials described in paragraph (1) of subdivision (a) of Section 60200 shall be submitted to the state board for adoption in 2008.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 60200 of the Education Code proposed by both this bill and S.B. 1769. 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 60200 of the Education Code, and (3) this bill is enacted after S.B. 1769, in which case Section 1 of this bill shall not become operative.

CHAPTER 888

An act to amend Sections 65008, 65400, 65589.5, 65852.1, 65863, and 65950 of, to add Section 65582.1 to, and to repeal Section 66037 of, the Government Code, relating to land use.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) Failure to timely prepare and file an adequate report on a general plan adopted by a city, county, or city and county before the mandatory deadlines as required pursuant to Section 65400 of the Government Code is a violation of law and contrary to the state housing goal.

(b) Preventing governmental delays in processing a permit application for a development project is an important state interest. Failure to comply with the mandatory deadlines set forth in Section 65950 of the Government Code is contrary to the state housing goal.

SEC. 2. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the individual or group of individuals. For purposes of this section, both of the following definitions apply:

(A) "Familial status" as defined in Section 12955.2.

(B) "Disability" as defined in Section 12955.3.

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B) Because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the owners or intended occupants of the residential development or emergency shelter.

(C) Because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(D) Because the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is

inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter because of, in whole or in part, either of the following:

(A) The method of financing.

(B) The occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of very low, low, or moderate income.

(3) A city, county, city and county, or other local government agency may not, pursuant to subdivision (d) of Section 65589.5, disapprove a housing development project or condition approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes any of the reasons prohibited in paragraph (1) or (2).

(c) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e). The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or emergency shelter based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph.

(2) No city, county, city and county, or other local governmental agency may, because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the intended occupants, or because the development is intended for occupancy by persons and families of very low, low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title do not prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements that reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices that inhibit the development of housing for persons and families of very low, low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 2.5. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) (A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B) (i) Because of the lawful occupation, age, or any characteristic listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the owners or intended occupants of the residential development or emergency shelter.

(ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in clause (i) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to clause (i).

(C) Because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(D) Because the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter because of, in whole or in part, either of the following:

(A) The method of financing.

(B) The occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of very low, low, or moderate income.

(3) A city, county, city and county, or other local government agency may not, pursuant to subdivision (d) of Section 65589.5, disapprove a housing development project or condition approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes any of the reasons prohibited in paragraph (1) or (2).

(c) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e). The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or emergency shelter based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph.

(2) (A) No city, county, city and county, or other local governmental agency may, because of the lawful occupation age, or any characteristic of the intended occupants listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 or because the development is intended for occupancy by persons and families of very low, low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title do not prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements that reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices that inhibit the development of housing for persons and families of very low, low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 3. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development

pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) For the report to be filed during the 2006 calendar year, the planning agency may provide the report required pursuant to paragraph (2) of subdivision (a) by October 1, 2006.

(c) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 4. Section 65582.1 is added to the Government Code, to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Second dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(*l*) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning

ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) This section does not relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). This section also does not relieve the local agency from making one or more of the findings required pursuant

to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) This section does not prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size

made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on

objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the

money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 5.5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need

for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter

if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) This section does not relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).This section does not relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) This section also does not prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the housing development project, special needs facility, or emergency shelter. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development

pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within

five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.1 of the Government Code is amended to read:

65852.1. (a) Notwithstanding Section 65906, any city, including a charter city, county, or city and county may issue a zoning variance, special use permit, or conditional use permit for a dwelling unit to be constructed, or which is attached to or detached from, a primary residence on a parcel zoned for a single-family residence, if the dwelling unit is intended for the sole occupancy of one adult or two adult persons who are 62 years of age or over, and the area of floorspace of the attached dwelling unit does not exceed 30 percent of the existing living area or the area of the floorspace of the detached dwelling unit does not exceed 1,200 square feet.

This section shall not be construed to limit the requirements of Section 65852.2, or the power of local governments to permit second units.

(b) This section shall become inoperative on January 1, 2007, and shall have no effect thereafter, except that any zoning variance, special use permit, or conditional use permit issued for a dwelling unit before January 1, 2007, pursuant to this section shall remain valid, and a dwelling unit constructed pursuant to such a zoning variance, special use permit, or conditional use permit shall be considered in compliance with all relevant laws, ordinances, rules, and regulations after January 1, 2007.

SEC. 7. Section 65863 of the Government Code is amended to read:

65863. (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.

(b) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1), and (2) of subdivision (h), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

(c) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) If a court finds that an action of a city, county, or city and county is in violation of this section, the court shall award to the plaintiff or petitioner who proposed the housing development, reasonable attorney's fees and costs of suit, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section or the court finds that the action was frivolous. This subdivision shall remain operative only until January 1, 2007, and as of that date is

no longer operative, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

(f) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(g) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(h) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, "lower residential density" means the following:

(A) For sites zoned for residential use and identified in the local jurisdiction' housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, a density below the density used in the inventory to determine the total housing unit capacity.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction's housing element program described in paragraph (1) of subdivision (c) of Section 65583, a density below the density used to determine the housing unit capacity of the rezoned site.

(2) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 for purposes of this section, or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, "lower residential density" means a density that is lower than 80 percent of the maximum allowable residential density for that parcel. For the purposes of this paragraph, if the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, the deadline for adoption of the housing element and determining substantial compliance shall be extended by a time period equal to the delay incurred by the council of governments in completing the final housing need allocation.

SEC. 8. Section 65950 of the Government Code is amended to read:

65950. (a) Any public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) Ninety days from the date of certification by the lead agency of the environmental impact report if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(3) Sixty days from the date of adoption by the lead agency of the negative declaration if a negative declaration is completed and adopted for the development project.

(4) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) if the project is exempt from the California Environmental Quality Act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraph (2) of subdivision (a), "development project" means a use consisting of either of the following:

(1) Residential units only.

(2) Mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50 percent of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(d) For purposes of this section, "lead agency" and "negative declaration" shall have the same meaning as those terms have in Sections 21067 and 21064 of the Public Resources Code, respectively.

SEC. 9. Section 66037 of the Government Code is repealed.

SEC. 10. (a) Section 2.5 of this bill incorporates amendments to Section 65008 of the Government Code proposed by both this bill and AB 2800. 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 65008 of the Government Code, and (3) this bill is enacted after AB 2800, in which case Section 2 of this bill shall not become operative.

(b) Section 5.5 of this bill incorporates amendments to Section 65589.5 of the Government Code proposed by both this bill and SB 1322. 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 65589.5 of the Government Code, and (3) this bill is enacted after SB 1322, in which case Section 5 of this bill shall not become operative.

CHAPTER 889

An act to amend Section 1265.5 of, and to add Section 1265.6 to, the Health and Safety Code, relating to health facilities.

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

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

SECTION 1. Section 1265.5 of the Health and Safety Code is amended to read:

1265.5. (a) (1) Prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled nursing, or an intermediate care facility/developmentally disabled, other than an intermediate care facility/developmentally disabled operated by the state that secures criminal record clearances for its employees through a method other than as specified in this section or upon the hiring of direct care staff by any of these facilities, the department shall request the Department of Justice to search for criminal record information to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation.

(2) The criminal record clearance shall require the applicant to submit electronic fingerprint images and related information of the facility administrator or manager, and any direct care staff, or any other adult living in the same location, to the Department of Justice. Applicants shall be responsible for any cost associated with capturing or transmitting the fingerprint images and related information.

(3) (A) The Licensing and Certification Program shall issue an All Facilities Letter (AFL) to facility licensees when both of the following criteria are met:

(i) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(ii) The program processes 95 percent of its total responses requiring disqualification in accordance with subdivision (c), no later than 45 days after the date that the report is received from the Department of Justice.

(B) After the AFL is issued, licensees shall not allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required. Notwithstanding any other provision of law, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this paragraph by means of an AFL or similar instruction.

(4) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information

as to whether or not he or she has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local governmental agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) (1) The application for licensure or renewal shall be denied if the criminal record indicates that the person seeking initial licensure or renewal of a license referred to in subdivision (a) has been convicted of a violation or attempted violation of any one or more of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273d, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, or Section 487, 488, 496, 503, 518, or 666, unless any of the following applies:

(A) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code and the information or accusation against the person has been dismissed pursuant to Section 1203.4 of the Penal Code with regard to that felony.

(B) The person was convicted of a misdemeanor and the information or accusation against the person has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(C) The person was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department and the department has made a determination in accordance with law that the conviction does not disqualify the person.

(2) The application for licensure or renewal shall be denied if the criminal record of the person includes a conviction in another state for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in paragraph (1),

unless evidence of rehabilitation comparable to the dismissal of a misdemeanor or a certificate of rehabilitation as set forth in subparagraph (A) or (B) of paragraph (1) is provided to the department.

(c) If the criminal record of a person described in subdivision (a) indicates any conviction other than a minor traffic violation or other than a conviction listed in subdivision (b), the department may deny the application for licensure or renewal. In determining whether or not to deny the application for licensure or renewal pursuant to this subdivision, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(1) The nature and seriousness of the offense under consideration and its relationship to their employment duties and responsibilities.

(2) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(3) The time that has elapsed since the commission of the conduct or offense referred to in paragraph (1) or (2) and the number of offenses.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(5) Any rehabilitation evidence, including character references, submitted by the person.

(6) Employment history and current employer recommendations.

(7) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(8) The granting by the Governor of a full and unconditional pardon.

(9) A certificate of rehabilitation from a superior court.

(d) Nothing in this section shall be construed to require a criminal record check of a person receiving services in an intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, or intermediate care facility/developmentally disabled.

(e) For purposes of this section, "direct care staff" means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Persons employed as consultants and acting as direct care staff shall be subject to the same requirements for a criminal record clearance as other direct care staff. However, the employing facility shall not be required to pay any costs associated with that criminal record clearance.

(f) Upon the employment of any person specified in subdivision (a), and prior to any contact with clients or residents, the facility shall ensure

that electronic fingerprint images and related information are submitted to the Department of Justice for the purpose of obtaining a criminal record check.

(g) The 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 1338.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(h) In addition to the persons who are not required to obtain multiple criminal record clearances pursuant to subdivision (g), a person shall not be required to obtain a separate criminal record clearance if the person meets all of the following criteria:

(1) The person is employed as a consultant and acts as direct care staff.

(2) The person is a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or speech-language pathologist.

(3) The person has obtained a criminal record clearance as a prerequisite to holding a license or certificate to provide direct care services.

(4) The person has a license or certificate to provide direct care service that is in good standing with the appropriate licensing or certification board.

(5) The person is providing time-limited, specialized clinical care or services.

(6) The person is not left alone with a client.

(i) If, at any time, the department does not meet the standards specified in clauses (i) and (ii) of subparagraph (A) of paragraph (3) of subdivision (a), for a period of 90 days, the requirements in paragraph (3) of subdivision (a) shall be suspended until the department can demonstrate that it has met those standards for a period of 90 days.

SEC. 1.5. Section 1265.5 of the Health and Safety Code is amended to read:

1265.5. (a) (1) Prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled nursing, or an intermediate care facility/developmentally disabled, other than an intermediate care facility/developmentally disabled operated by the state that secures criminal record clearances for its employees through a method other than as specified in this section or upon the hiring of direct care staff by any of these facilities, the department shall secure from the Department of Justice criminal offender record information to determine whether the applicant, facility administrator or manager, any direct care staff, or

any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation.

(2) (A) The criminal record clearance shall require the applicant to submit electronic fingerprint images and related information of the facility administrator or manager, and any direct care staff, or any other adult living in the same location, to the Department of Justice. Applicants shall be responsible for any cost associated with capturing or transmitting the fingerprint images and related information.

(B) The criminal record clearance shall be completed prior to direct staff contact with residents of the facility. A criminal record clearance shall be complete when the department has obtained the person's criminal record information from the Department of Justice and has determined that he or she is not disqualified from engaging in the activity for which clearance is required.

(3) (A) The Licensing and Certification Program shall issue an All Facilities Letter (AFL) to facility licensees when it determines that both of the following criteria have been met for a period of 30 days:

(i) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(ii) The program processes 95 percent of its total responses requiring disqualification in accordance with subdivision (b), with notices mailed to the facility no later than 45 days after the date that the criminal offender record information report is received from the Department of Justice.

(B) After the AFL is issued, facilities shall not allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(C) An applicant or certificate holder who may be disqualified on the basis of a criminal conviction shall provide the department with a certified copy of the judgment of each conviction. In addition, the individual may, during a period of two years after the department receives the criminal record report, provide the department with evidence of good character and rehabilitation in accordance with subdivision (c) of Section 1265.5. Upon receipt of a new application for certification of the individual, the department may receive and consider the evidence during

the two-year period without requiring additional fingerprint imaging to clear the individual.

(D) The department's Licensing and Certification Program shall explore and implement methods for maximizing its efficiency in processing criminal record clearances within the requirements of law, including a streamlined clearance process for persons that have been disqualified in the basis of criminal convictions that do not require automatic denial pursuant to subdivision (b) of Section 1265.5.

(4) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local governmental agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) (1) The application for licensure or renewal shall be denied if the criminal record indicates that the person seeking initial licensure or renewal of a license referred to in subdivision (a) has been convicted of a violation or attempted violation of any one or more of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273d, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, or Section 487, 488, 496, 503, 518, or 666, unless any of the following applies:

(A) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code and the information or accusation against the person has been dismissed pursuant to Section 1203.4 of the Penal Code with regard to that felony.

(B) The person was convicted of a misdemeanor and the information or accusation against the person has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(C) The person was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department and the department has made a determination in accordance with law that the conviction does not disqualify the person.

(2) The application for licensure or renewal shall be denied if the criminal record of the person includes a conviction in another state for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in paragraph (1), unless evidence of rehabilitation comparable to the dismissal of a misdemeanor or a certificate of rehabilitation as set forth in subparagraph (A) or (B) of paragraph (1) is provided to the department.

(c) If the criminal record of a person described in subdivision (a) indicates any conviction other than a minor traffic violation or other than a conviction listed in subdivision (b), the department may deny the application for licensure or renewal. In determining whether or not to deny the application for licensure or renewal pursuant to this subdivision, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(1) The nature and seriousness of the offense under consideration and its relationship to their employment duties and responsibilities.

(2) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(3) The time that has elapsed since the commission of the conduct or offense referred to in paragraph (1) or (2) and the number of offenses.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(5) Any rehabilitation evidence, including character references, submitted by the person.

(6) Employment history and current employer recommendations.

(7) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(8) The granting by the Governor of a full and unconditional pardon.

(9) A certificate of rehabilitation from a superior court.

(d) Nothing in this section shall be construed to require a criminal record check of a person receiving services in an intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, or intermediate care facility/developmentally disabled.

(e) For purposes of this section, "direct care staff" means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Persons employed as consultants and acting as direct care staff shall be subject to the same requirements for a criminal record clearance as other direct care staff. However, the employing facility shall not be required to pay any costs associated with that criminal record clearance.

(f) Upon the employment of any person specified in subdivision (a), and prior to any contact with clients or residents, the facility shall ensure that electronic fingerprint images are submitted to the Department of Justice for the purpose of obtaining a criminal record check.

(g) The 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 1338.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(h) In addition to the persons who are not required to obtain multiple criminal record clearances pursuant to subdivision (g), a person shall not be required to obtain a separate criminal record clearance if the person meets all of the following criteria:

(1) The person is employed as a consultant and acts as direct care staff.

(2) The person is a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or speech-language pathologist.

(3) The person has obtained a criminal record clearance as a prerequisite to holding a license or certificate to provide direct care services.

(4) The person has a license or certificate to provide direct care service that is in good standing with the appropriate licensing or certification board.

(5) The person is providing time-limited specialized clinical care or services.

(6) The person is not left alone with a client.

(i) If, at any time, the department determines that it does not meet the standards specified in clauses (i) and (ii) of subparagraph (A) of paragraph (3) of subdivision (a), for a period of 90 consecutive days, the requirements in paragraph (3) of subdivision (a) shall be suspended until the department determines that it has met those standards for a period of 90 consecutive days.

(j) During any period of time in which the requirements of paragraph (3) of subdivision (a) are inoperative, facilities may allow newly hired

facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility after those persons have submitted livescan fingerprint images to the Department of Justice, and the department shall issue an AFL advising of this change in the statutory requirement.

(k) Notwithstanding any other provision of law, the State Department of Health Services is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 2. Section 1265.6 is added to the Health and Safety Code, to read:

1265.6. Notwithstanding any other provision of law, a registered nurse within his or her scope of practice may require direct care staff in an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled nursing to administer blood glucose testing for a person with developmental disabilities who resides at the facility and who has diabetes, if all of the following criteria are met:

(a) The blood glucose testing is specifically ordered by a physician. The results of the testing shall be reported to a registered nurse as specified in the physician's order.

(b) Prior to performing the blood glucose testing, the direct care staff shall be trained by the registered nurse to perform the testing and shall demonstrate proficiency in performing the testing while under the immediate supervision of the registered nurse.

(c) Training of direct care staff to perform blood glucose testing shall include, but not be limited to, an overview of the basic disease process of type I and type II diabetes, recognition of the signs and symptoms of hypoglycemia and hyperglycemia, the role of nutrition management in diabetes, diabetes and blood sugar control, long-term complications of diabetes, specific instruction in utilizing and the use of specific over-the-counter glucose monitoring device that is approved by the FDA, including the cleaning and maintaining the accuracy of the client-specific glucose monitoring device, proper infection control practices related to

the use of the device, including the handling and disposal of infectious waste, and recording accurate records of blood glucose readings in the client medical record. Records of blood glucose readings shall be reviewed by the facility registered nurse at least monthly.

(d) A signed written statement shall be prepared by the registered nurse that includes a certification of the direct care staff's competence to perform the testing and that identifies the clients residing at the facility for whom the certification is applicable. This certification shall be placed and maintained in the direct care staff's training record.

(e) The certification of competence to perform the blood glucose testing shall be procedure and client specific, and shall not be transferred between clients residing at the facility or other facilities.

(f) The registered nurse shall be responsible for monitoring and implementing the direct care staff blood glucose testing. At least once every three months, the registered nurse shall observe and confirm the direct care staff person's proficiency in performing the approved testing and shall update the certification. The proficiency determination shall include a determination by the registered nurse that the direct care staff remains proficient in demonstrating the specified method for cleaning and recalibration of the glucose monitoring device.

(g) A registered nurse shall provide continuing in-service education on the management of diabetes and the use of blood glucose monitoring devices not less than once per year and include documentation of the content of the training and the staff who were in attendance.

(h) A facility shall develop a written policy and procedure governing blood glucose testing for clients residing at the facility that shall include procedures for the training and competency assessment of direct care staff as required by this section.

(i) A facility shall have received a certificate of waiver pursuant to subdivision (n) of Section 483.460 of Title 42 of the Code of Federal Regulations prior to the implementation of blood glucose testing and shall retain a copy of the CLIA waiver for inspection by the department.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 1265.5 of the Health and Safety Code proposed by both this bill and Senate Bill 1759. 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 1265.5 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 1759, in which case Section 1 of this bill shall not become operative.

CHAPTER 890

An act to amend Sections 65301, 65583, 65583.1, 65583.2, and 65588 of the Government Code, to amend Sections 17021.6, 18027.3, 18552, 18909, 19163.5, 19851, 33760, 34312, 50517.5, 50530.5, and 52080 of, to amend and renumber Section 50558 of, and to repeal Section 18934.6 of, the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to housing.

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

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

SECTION 1. Section 65301 of the Government Code is amended to read:

65301. (a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and any other territory outside its boundaries that in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development

to review housing elements pursuant to Section 65585 of this code or Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy

programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584,

the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

SEC. 3. Section 65583.1 of the Government Code is amended to read:

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for

substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located in a multifamily rental housing complex of four or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to and reserved for occupancy by

persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) On July 1 of the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department

within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based

on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2007, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third

revision cycle ending June 30, 1999, and June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

SEC. 6. Section 17021.6 of the Health and Safety Code is amended to read:

17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulation or local ordinance, with respect to employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this

section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

SEC. 7. Section 18027.3 of the Health and Safety Code is amended to read:

18027.3. (a) The Legislature finds and declares as follows:

(1) The American National Standards Institute (ANSI) and National Fire Protection Association (NFPA) have adopted standards for the design and safety of recreational vehicles, including park trailers, pursuant to procedures that have given diverse views an opportunity to be considered and which indicate that interested and affected parties have reached substantial agreement on their adoption.

(2) The ANSI A119.2 and A119.5 standards and the NFPA 1192 standards are designed to protect the health and safety of persons using recreational vehicles and park trailers.

(3) Compliance with those standards as required by this section may be enforced by any law enforcement authority having appropriate jurisdiction, pursuant to Section 18020.5, which makes it a crime to violate any provision of this part. Therefore, to promote governmental efficiency and economy and to avoid duplication of activities and services, it is appropriate to eliminate the role of the department in

modifying and enforcing standards for the construction of recreational vehicles.

(b) Recreational vehicles specified in subdivision (a) of Section 18010 that are manufactured on or after January 1, 1999, and before July 14, 2005, shall be constructed in accordance with Standard No. A119.2, as contained in the 1996 edition of the Standards of the American National Standards Institute. Recreational vehicles specified in subdivision (a) of Section 18010 that are manufactured on or after July 14, 2005, shall be constructed in accordance with the NFPA 1192 Standard on Recreational Vehicles.

(c) Recreational vehicles specified in subdivision (b) of Section 18010 that are manufactured on or after January 1, 1999, shall be constructed in accordance with Standard No. A119.5, as contained in the 1998 edition of the Standards of the American National Standards Institute.

(d) A change in Standard No. A119.2 or A119.5 or in the NFPA 1192 Standard on Recreational Vehicles contained in a new edition of the Standards of the American National Standards Institute shall become operative on the 180th day following the publication date.

(e) No recreational vehicle shall be equipped with more than one electrical power supply cord.

(f) Any recreational vehicle manufactured on or after January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia indicating the manufacturer's compliance with the American National Standards Institute or National Fire Protection Association standard specified in subdivision (b) or (c).

(g) Any recreational vehicle manufactured prior to January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia of approval indicating the manufacturer's compliance with the American National Standards Institute standard or a department insignia issued prior to January 1, 1999, indicating compliance with the state standard that was in effect pursuant to this chapter on the date of manufacture, including any modifications contained in regulations.

(h) It is unlawful for any person to do either of the following:

(1) Remove, or cause to be removed, a label, an insignia, or an insignia of approval affixed pursuant to this section.

(2) Alter or convert, or cause to be altered or converted, any recreational vehicle in a manner that is inconsistent with ANSI Standard No. A119.2 or A119.5 or the NFPA 1192 Standard on Recreational Vehicles when the recreational vehicle is used, occupied, sold, or offered for sale within this state.

SEC. 8. Section 18552 of the Health and Safety Code is amended to read:

18552. (a) The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, and the department shall adopt other regulations for manufactured home or mobilehome accessory buildings or structures. The regulations adopted by the department shall provide for the construction, location, and use of manufactured home or mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

(b) A manufactured home or accessory building or structure may be installed in a mobilehome park above 4,000 feet in elevation at the option of the owner of the home and after approval by the park operator only if the installation is consistent with one of the following:

(1) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads as established for residential buildings by local ordinance, the manufactured home or accessory building or structure must have the capacity to resist a roof live load of at least 60 pounds per square foot and may only be installed in a mobilehome park that has and is operating an approved snow roof load maintenance program, as defined by the department. The installation shall comply with all other applicable requirements of this part and the regulations adopted pursuant to this part and shall be approved by the enforcement agency. The approval of the snow roof load maintenance program shall be identified on the permit to operate.

(2) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads established by local ordinance for residential buildings, the manufactured home or accessory building or structure may only be installed if it is protected by a ramada designed to resist the minimum snow loads established by local ordinance and constructed pursuant to this part and regulations adopted pursuant to this part. The plans and specifications for the construction of the ramada and the installation of the home shall be approved by the enforcement agency.

(3) If a manufactured home or accessory building or structure has the capacity to resist the minimum snow loads established by local ordinance for residential buildings, an approved snow roof load maintenance program or ramada is not required for that home or accessory building or structure.

(c) Before installing a manufactured home or accessory building or structure pursuant to paragraph (1) of subdivision (b), the operator of a park shall request and obtain approval from the enforcement agency for its existing or proposed snow roof load maintenance program. The enforcement agency's approval shall be based on relevant factors

identified in the regulations of the department and shall include, but not be limited to, the types of maintenance to be used to control or remove snow accumulation and the capacity and capability of personnel and equipment proposed to satisfactorily perform the snow roof load maintenance program. The request for approval shall specify the type of maintenance to be used to control snow accumulation and shall demonstrate the capacity and capability of necessary personnel or its equivalent to satisfactorily perform the snow roof load maintenance program.

SEC. 9. Section 18909 of the Health and Safety Code is amended to read:

18909. (a) "Building standard" means any rule, regulation, order, or other requirement, including any amendment or repeal of that requirement, that specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.

(b) Except as provided in subdivision (d), "building standard" includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions.

(c) "Building standard" includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, but does not include the adoption of procedural ordinances by a city or other public agency relating to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

(d) "Building standard" does not include any safety regulations that any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating, including, but not limited to, warehousing and food processing operations, but not including safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to the building as a part thereof, as determined by the commission.

(e) "Building standard" does not include temporary scaffoldings and similar temporary safety devices and procedures that are used in the erection, demolition, moving, or alteration of buildings.

(f) "Building standard" does not include any regulation relating to the internal management of a state agency.

(g) "Building standard" does not include any regulation, rule, order, or standard that pertains to mobilehomes, manufactured homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(h) "Building standard" does not include any regulation, rule, or order or standard that pertains to a mobilehome park, as defined by Section 18214, or special occupancy park, as defined by Section 18862.43, except that "building standard" includes the construction of permanent buildings and plumbing, electrical, and fuel gas equipment and installations within permanent buildings in a mobilehome park or special occupancy park. For purposes of this subdivision, "permanent building" means any permanent structure constructed in the mobilehome park or special occupancy park that is a permanent facility under the control and ownership of the park operator.

(i) "Building standard" does not include any regulation, rule, order, or standard that pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8.

(j) "Building standard" does not include any regulation adopted by the California Integrated Waste Management Board, the Department of Toxic Substances Control, the Occupational Safety and Health Standards Board, or the State Water Resources Control Board concerning the discharge of waste to land or the treatment, transfer, storage, resource recovery, disposal, or recycling of the waste.

SEC. 10. Section 18934.6 of the Health and Safety Code is repealed.

SEC. 11. Section 19163.5 of the Health and Safety Code is amended to read:

19163.5. Except as otherwise provided in Chapter 1 (commencing with Section 129675) of Part 7 of Division 107, an ordinance adopted by a city, city and county, or county pursuant to Section 19163, may establish higher standards for the seismic retrofit of those structures or buildings which are needed for emergency purposes after an earthquake in order to preserve the peace, health, and safety of the general public, including, but not limited to, hospitals and other medical facilities having surgery or emergency treatment areas, fire and police stations, government disaster operations centers, and public utility and communication buildings deemed vital in emergencies.

SEC. 12. Section 19851 of the Health and Safety Code is amended to read:

19851. (a) The official copy of the plans maintained by the building department of the city or county provided for under Section 19850 shall be open for inspection only on the premises of the building department as a public record. The copy may not be duplicated in whole or in part except (1) with the written permission, which permission shall not be

unreasonably withheld as specified in subdivision (f), of the certified, licensed or registered professional or his or her successor, if any, who signed the original documents and the written permission of the original or current owner of the building, or, if the building is part of a common interest development, with the written permission of the board of directors or governing body of the association established to manage the common interest development, or (2) by order of a proper court or upon the request of any state agency.

(b) Any building department of a city or county, which is requested to duplicate the official copy of the plans maintained by the building department, shall request written permission to do so from the certified, licensed, or registered professional, or his or her successor, if any, who signed the original documents and from (1) the original or current owner of the building or (2), if the building is part of a common interest development, from the board of directors or other governing body of the association established to manage the common interest development.

(c) The building department shall also furnish the form of an affidavit to be completed and signed by the person requesting to duplicate the official copy of the plans, which contains provisions stating all of the following:

(1) That the copy of the plans shall only be used for the maintenance, operation, and use of the building.

(2) That drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record.

(3) That subdivision (a) of Section 5536.25 of the Business and Professions Code states that a licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to, or use of, those plans, specifications, reports, or documents where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the architectural service rendered by the architect who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.

(d) The request by the building department to a licensed, registered, or certified professional may be made by the building department sending a registered or certified letter to the licensed, registered, or certified professional requesting his or her permission to duplicate the official copy of the plans and sending with the registered or certified letter, a copy of the affidavit furnished by the building department which has been completed and signed by the person requesting to duplicate the

official copy of the plans. The registered or certified letters shall be sent by the building department to the most recent address of the licensed, registered, or certified professional available from the California State Board of Architectural Examiners.

(e) The governing body of the city or county may establish a fee to be paid by any person who requests the building department of the city or county to duplicate the official copy of any plans pursuant to this section, in an amount which it determines is reasonably necessary to cover the costs of the building department pursuant to this section.

(f) The certified, licensed, or registered professional's refusal to permit the duplication of the plans is unreasonable if, upon request from the building department, the professional does either of the following:

(1) Fails to respond to the local building department within 30 days of receipt by the professional of the request. However, if the building department determines that professional is unavailable to respond within 30 days of receipt of the request due to serious illness, travel, or other extenuating circumstances, the time period shall be extended by the building department to allow the professional adequate time to respond, as determined to be appropriate to the individual circumstance, but not to exceed 60 days.

(2) Refuses to give his or her permission for the duplication of the plans after receiving the signed affidavit and registered or certified letter specified in subdivisions (c) and (d).

SEC. 13. Section 33760 of the Health and Safety Code is amended to read:

33760. (a) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties, or make loans to qualified mortgage lenders, for financing any of the following:

(1) Residential construction within a redevelopment project area.

(2) Residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(3) To the extent required by Section 103A of Title 26 of the United States Code, as amended, to maintain the exemption from federal income taxes of interest on bonds or notes issued by the agency under this chapter, residences located within targeted areas, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code. Any loans to

qualified mortgage lenders shall be made under terms and conditions which, in addition to other provisions as determined by the agency, shall require the qualified mortgage lender to use all of the net proceeds thereof, directly or indirectly, for the making of mortgage loans or construction loans in an appropriate principal amount equal to the amount of the net proceeds. Those mortgage loans may, but need not, be insured.

(b) (1) Not less than 20 percent (15 percent in target areas) of the units in any residential project financed pursuant to this section on or after January 1, 1986, shall be occupied by, or made available to, individuals of low and moderate income, as defined by Section 103(b)(12)(C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(2) Not less than one-half of the units described in paragraph (1) shall be occupied by, or made available to, very low income households, as defined by Section 50105. The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(c) Units required to be reserved for occupancy as provided in subdivision (b) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

(d) (1) When issuing tax-exempt bonds for purposes of this section, the regulatory agreement entered into by the agency shall require that following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy for low- or very low income households and financed or refinanced with

proceeds of bonds issued pursuant to this section on or after January 1, 2006, or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by the regulatory agreement prior to the date or expiration or termination, until the earliest of any of the following occur:

(A) The household's income exceeds 140 percent of the maximum eligible income specified in the regulatory agreement for reserved units.

(B) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(C) Thirty years after the date of the commencement of the qualified project period.

(D) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(2) As used in this subdivision, "qualified project period" shall have the meaning specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

(3) The amendment to this subdivision made during the 2005-06 Regular Session of the Legislature that is set forth in paragraph (1) is declaratory of existing law.

(e) This section shall become operative January 1, 1996.

SEC. 14. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may undertake any of the following:

(a) Prepare, carry out, acquire, lease, and operate housing projects for persons of low income, as authorized by this chapter, and housing developments for persons of low income, as authorized by Part 3 (commencing with Section 50900) of Division 31.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) (1) Provide financing for the acquisition, construction, rehabilitation, refinancing, or development of dwelling accommodations

for persons of low income, and for other persons when acting pursuant to the authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(2) When issuing tax-exempt bonds for purposes of this section, the regulatory agreement entered into by the agency shall require that following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy for low- or very low income households and financed or refinanced with proceeds of bonds issued pursuant to this section on or after January 1, 2006, or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by the regulatory agreement prior to the date or expiration or termination, until the earliest of any of the following occur:

(A) The household's income exceeds 140 percent of the maximum eligible income specified in the regulatory agreement for reserved units.

(B) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(C) Thirty years after the date of the commencement of the qualified project period.

(D) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(3) As used in this subdivision, "qualified project period" shall have the meaning specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

(4) The amendment to this subdivision made during the 2005-06 Regular Session of the Legislature that is set forth in paragraph (2) is declaratory of existing law.

(e) Provide counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

(f) Provide the security which the authority deems necessary for the protection of a project and its inhabitants.

(g) Assist housing projects pursuant to Section 34312.3.

(h) Acquire, plan, undertake, construct, improve, develop, maintain, and operate land on which mobilehomes or a mobilehome park are, or may be, located, so long as not less than 20 percent of the mobilehomes are designated for occupancy by, or are occupied by, persons of low income. For purposes of this subdivision, "mobilehome" has the meaning specified in Section 18008, and "mobilehome park" has the meaning specified in Section 18214.

SEC. 15. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants or loans, or both, shall be made to local public entities, nonprofit corporations, limited liability companies, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing. Under this program, grants or loans, or both, may also be made for the cost of acquiring the land and any building thereon in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grants or loans, or both, to the local public entities, nonprofit corporations, limited liability companies, or limited partnerships or may, at the request of the local public entity, nonprofit corporation, limited liability company, or limited partnership that sponsors and supervises the rehabilitation or construction program, disburse grant funds to agricultural employees who are participants in a rehabilitation or construction program sponsored and supervised by the local public entity, nonprofit corporation, limited liability company, or limited partnership. No part of a grant or loan made pursuant to this section may be used for project organization or planning.

(2) Notwithstanding any other provision of this chapter, upon the request of a grantee the program also may loan funds to a grantee at no

more than 3 percent simple interest. Principal and accumulated interest is due and payable upon completion of the term of the loan. For any loan made pursuant to this subdivision, the performance requirements of the lien shall remain in effect for a period of no less than the original term of the loan.

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or loans, or both, pursuant to this section and Section 50517.10, for purposes of Chapter 8.5 (commencing with Section 50710), and for costs incurred by the department in administering these programs.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants or loans from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(D) All moneys appropriated to the department for the purposes of Chapter 8.5 (commencing with Section 50710) and any moneys received by the department from the occupants of housing or shelter provided pursuant to Chapter 8.5 (commencing with Section 50710). These moneys shall be separately accounted for from the other moneys deposited in the fund.

(c) (1) Grants and loans made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(2) For grant or loan requests of not more than five hundred thousand dollars ($500,000), the department may waive a part of the matching fund requirement in this subdivision if the grantee demonstrates an inability, as may be established by the department in "Notices of Funding Availability," to secure adequate financing from other sources. Not more than 5 percent of the total amount appropriated to the department for the purposes of this section may be used to meet grant or loan requests in which a part of the matching fund requirement has been waived pursuant to this paragraph.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents that may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds provided pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds provided pursuant to this section.

(4) (A) Require as a condition precedent to a grant or loan, or both, of funds that the applicant have site control that is satisfactory to the department; that the grantee be record owner in fee of the assisted real property or provide other security including a lien on the manufactured home that is satisfactory to the department to ensure compliance with the construction, financial, and program obligations; and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property or manufactured home in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

(B) If funds granted or loaned pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a project that is less than the percentage of total development costs that funds granted or loaned pursuant to this section represent.

(C) Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property that is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index

to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. For manufactured housing, the liens shall be recorded by the department in the same manner as other manufactured housing liens are recorded. The department shall adopt by regulation criteria for the determination of the lien period. This regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction. The lien period for manufactured housing liens for manufactured homes shall not exceed 10 years.

(D) Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, or the department, as appropriate, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(E) Prior to funds granted pursuant to this section being used to finance the acquisition of a manufactured home, the grantee shall ensure that the home either is already installed in a location where it will be occupied by the eligible household or that a location has been leased or otherwise made available for the manufactured home to be occupied by the eligible household.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide linguistically appropriate services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that both of the following occur:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant and loan funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien

provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works at a packing shed for a labor contractor or other entity that contracts with an agricultural employer in order to perform services in connection with handling, drying, packing, or storing any

agricultural commodity in its raw or natural state, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Grantee" means the local public entity, nonprofit corporation, limited liability company, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, limited liability company, or limited partnership.

(3) "Housing" may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.

(4) "Limited liability company" means a limited liability company where all the members are nonprofit public benefit corporations.

(5) "Limited partnership" means a limited partnership where all of the general partners are either nonprofit public benefit corporations, limited liability companies, or a combination of nonprofit public benefit corporations and limited liability companies.

(h) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 16. Section 50530.5 of the Health and Safety Code is amended to read:

50530.5. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for construction, conversion, preservation, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with, land purchase or options to buy land; options or deposits to buy or preserve existing government-assisted rental housing for the purpose of preserving the affordability of the units; professional services such as architectural, engineering, or legal services; permit or application fees; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending

the time for exercising an option or extending the time period for repayment of an advance previously obtained. These loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Fund" means the Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(d) "Land purchase loan" means a loan for the costs incurred by an eligible sponsor in obtaining an option on, or purchasing suitable land for, the future development of assisted housing, including, but not limited to, costs associated with transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

(e) "Eligible sponsors" means local governmental agencies, nonprofit corporations, including cooperative housing corporations, limited liability companies where all of the members are nonprofit public benefit corporations, and limited partnerships, as defined in subdivision (f).

(f) "Limited partnerships" means limited partnerships where all of the general partners are either nonprofit public benefit corporations, limited liability companies where all of the members are nonprofit public benefit corporations, or a combination of nonprofit public benefit corporations and limited liability companies where all of the members are nonprofit public benefit corporations.

SEC. 17. Section 50558 of the Health and Safety Code is amended and renumbered to read:

17921.5. Except as provided in Section 18930, the department shall prepare and adopt minimum standards regulating the use and application of cellular concrete as it determines are reasonably necessary for the protection of life and property.

SEC. 18. Section 52080 of the Health and Safety Code is amended to read:

52080. (a) (1) A multifamily rental housing development financed, or for which financing has been extended or committed pursuant to this chapter from the proceeds of sale of each bond issue, shall at all times during the qualified project period meet the requirement of subparagraph (A) or (B), whichever is elected by the issuer at the time of issuance of the issue for each development:

(A) Twenty percent or more of the residential units in the development shall be occupied by individuals whose income is 50 percent or less of area median income.

(B) Forty percent or more of the residential units in the development shall be occupied by individuals whose income is 60 percent or less of area median income.

As used in this section, "qualified project period," "income," and "area median income" shall have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

With respect to a development for which the issuer has elected to meet the requirement of subparagraph (A), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (A) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. With respect to a development for which the issuer has elected to meet the requirement of subparagraph (B), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (B) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 60 percent of area median income.

(2) The governing body shall ensure that the local agency issuing permits for the acquisition, construction, rehabilitation, refinancing, or development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements including, but not limited to, the following:

(A) Reductions in construction and design requirements.

(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.

(C) Granting density bonuses.

(D) Providing expedited processing of permits.

(E) Modifying zoning code requirements to allow mixed use zoning.

(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.

(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.

(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the governing body. The governing body shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to

enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The governing body shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal.

(5) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing housing for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. As a condition of financing provided by bonds issued on or after January 1, 1991, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the qualified project period. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the city or county as grantee.

(c) The governing body shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to the units that are available to other tenants.

(d) (1) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees for multifamily rental developments which incorporate innovative and energy-efficient techniques that reduce development or operating costs and that have the lowest feasible per unit cost, as determined by the city or county, based on efficiency of design

or the elimination of improvements that are not required by applicable building standards.

(2) The city or county shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees on multifamily rental housing developments that do any of the following:

(A) Utilize federal housing or development assistance.

(B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land.

(C) Are sponsored by a nonprofit housing organization.

(D) Provide a significant number of housing units, as determined by the city or county, as part of a coordinated jobs and housing plan adopted by the city or county.

(E) Exceeds the ratios specified in subparagraph (A) or (B) of paragraph (1) of subdivision (a) or restricts the occupancy for these units for the longest period beyond the required minimum number of years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the governing body. The governing body shall grant that approval only after the city or county determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the city or county shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

(f) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

(g) Following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to subdivision (a) and financed or refinanced with proceeds of bonds issued pursuant to this section on or after January 1, 1991, or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater

than the amount set forth by subdivision (a), until the earliest of any of the following occur:

(1) The household's income exceeds 140 percent of the maximum eligible income specified in subdivision (a).

(2) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(3) Thirty years after the date of the commencement of the qualified project period.

(4) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(5) The amendment to this subdivision made during the 2005-06 Regular Session of the Legislature is declaratory of existing law.

(h) During the three years prior to expiration of the qualified project period, the sponsor shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(i) This section shall not be construed to require a city or county to monitor the sponsor's compliance with the provisions of subdivision (g).

(j) The requirements of subdivisions (g) to (i), inclusive, shall be contained in a regulatory agreement required pursuant to subdivision (b).

(k) Notwithstanding Section 1461 of the Civil Code, the provisions of this section shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by an owner's failure to comply with this section.

SEC. 19. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 12201) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to Section 42(d)(5)(C) of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal

Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of

rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the

Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (3) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

SEC. 20. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(E) For buildings located in designated difficult development areas or qualified census tracts as defined in Section 42(d)(5)(C) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing tax credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building

exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) The aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, providing the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service,

reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 21. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(E) For buildings located in designated difficult development areas or qualified census tracts as defined in Section 42(d)(5)(C) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, shall be equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed at any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building

exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any

building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and this agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto, and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for

specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate that there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service,

reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) Any unused credit may continue to be carried forward, as provided in subdivision (k), until the credit has been exhausted.

This section shall remain in effect on or after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(s) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

SEC. 22. It is the intent of the Legislature that the regulations adopted by the Department of Housing and Community Development to implement and interpret the changes to Section 18552 of the Health and Safety Code enacted by this act be deemed to be editorial changes pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of the Government Code), if they are amendments, repeals, or adoptions that are substantially the same in content as the changes to that section enacted by this act.

SEC. 23. The changes to Section 65583 of the Government Code proposed by Section 2 of this bill shall not become operative if (1) AB 2634 or SB 1322 is enacted and becomes effective on or before January 1, 2007, (2) either bill amends Section 65583 of Government Code, and (3) this bill is enacted after either AB 2634 or SB 1322.

SEC. 24. The changes to Section 65583.2 of the Government Code proposed by Section 4 of this bill shall not become operative if (1) SB 1322 is enacted and becomes effective on or before January 1, 2007, (2) this bill and SB 1322 amend Section 65583.2 of Government Code, and (3) this bill is enacted after SB 1322.

SEC. 25. The changes to Section 17021.6 of the Health and Safety Code proposed by Section 7 of this bill shall not become operative if (1) SB 1802 is enacted and becomes effective on or before January 1, 2007, (2) this bill and SB 1802 amend Section 17021.6 of Health and Safety Code, and (3) this bill is enacted after SB 1802.

CHAPTER 891

An act to amend Section 65583 of the Government Code, relating to housing elements.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 Supportive Housing Development Act of 2006.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of

subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for

replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and

development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which

alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where a city, county, or city and county submits a first draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 1.5. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. For the purposes of the analysis required by paragraph (3) of this subdivision

and paragraph (1) of subdivision (c), local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter and transitional housing.

(7) An inventory of sites suitable for the development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters identified pursuant to paragraph (6).

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need

for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters. The sites shall be zoned to permit the development of shelters as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments

of the community in the development of the housing element, and the program shall describe this effort.

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these shelters pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65583 of the Government Code proposed by both this bill and SB 1322. 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 65583 of the Government Code, and (3) this bill is enacted after SB 1322, 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 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 892

An act to amend Section 50843 of, and to add Sections 50842.1, 50842.2, and 50843.5 to, the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 50842.1 is added to the Health and Safety Code, to read:

50842.1. The Legislature finds and declares all of the following:

(a) Local housing trusts are locally developed responses to regional housing needs and are responsive to local control.

(b) Local housing trusts have an excellent record of accomplishment of serving as efficient vehicles for disbursing resources at the local level.

(c) As of January 1, 2006, there were 21 city and nine county housing trusts throughout California producing thousands of units of affordable housing, through the utilization of millions of dollars of locally generated funds, resulting in the leverage of millions more for the development of affordable housing.

(d) Housing trusts are local sources of revenue for affordable housing and very often are a direct result of local constituencies coming together around affordable housing. These relationships are often long term and include a broad set of community players that go beyond the traditional supporter of affordable housing.

SEC. 2. Section 50842.2 is added to the Health and Safety Code, to read:

50842.2. There is hereby established the Local Housing Trust Fund Matching Grant Program, to be administered by the department, for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing as described in this section. Local housing trust funds shall be derived on an ongoing basis from private contributions or governmental sources that are not otherwise restricted in use for housing programs.

SEC. 3. Section 50843 of the Health and Safety Code is amended to read:

50843. (a) This section applies only to grants awarded pursuant to this chapter from funds made available pursuant to Part 11 (commencing with Section 53500).

(b) The department may make matching grants available to cities and counties, or a city and county, that have created, funded, and operated housing trust funds prior to January 1, 2003, and to existing charitable nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code that have created, funded, and operated housing trust funds prior to January 1, 2003. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA). The department may establish competitive criteria consistent with the funding priorities used in the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)) to be used in the event that applications exceed the funds available. Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(c) The department may make matching grants available to new local housing trusts created by cities and counties, or a city and county, and to fund new housing trusts created by charitable nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code that provide low-income housing assistance. As used in this section, "new housing trust" means a housing trust that was not in existence prior to January 1, 2003. The department may consider grant applications, submitted pursuant to this subdivision, and determine their eligibility for funding, in the order in which they are received.

(d) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) They utilize a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) They receive ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.

(e) The minimum allocation to an applicant shall be one million dollars ($1,000,000), and no applicant may receive an allocation in excess of two million dollars ($2,000,000). All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis. No application shall be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to

the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(f) Funds shall be used to provide loans for the construction of rental housing projects, or for construction of units within rental housing projects, affordable to, and restricted for, very low income persons and families earning less than 60 percent of the area median income. All assisted units shall be restricted for not less than 55 years. Loan repayments shall accrue to the grantee housing trust, or to the department if the trust is no longer in existence.

(g) In order for a city, county, or city and county to be eligible for funding, the applicant shall have, at the time of application, an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that have, at the time of application, an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. For the purposes of this section, eligible local housing trust funds may not include any ongoing restricted fund that is required to be established pursuant to federal or state law.

(h) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(i) No more than 5 percent of the funds appropriated to the department pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 53533 shall be used to pay the costs of administration of this section.

(j) A local housing trust fund shall encumber funds provided pursuant to this section no later than 54 months after receipt. Any funds not encumbered within that period shall revert to the department for use in the Multifamily Housing Program.

(k) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31, 2005, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds.

(*l*) This program shall be operated under guidelines adopted by the department and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 50843.5 is added to the Health and Safety Code, to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to any city, county, or city and county that has created, funded, and operated housing trust funds and to existing charitable nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code that have created, funded, and operated housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA).

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the NOFA.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.

(c) The minimum allocation to an applicant shall be one million dollars ($1,000,000), and no applicant may receive an allocation in excess of two million dollars ($2,000,000). All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with money that is not required by any state or federal law to be spent on housing. No application shall be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds.

Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(d) (1) Funds shall be used for the predevelopment costs, acquisition, construction, or rehabilitation of the following types of housing or projects:

(A) Rental housing projects or units within rental housing projects. The affordability of all assisted units shall be restricted for not less than 55 years.

(B) Emergency shelters, safe havens, and transitional housing, as these terms are defined in Section 50801.

(C) For sale housing projects or units within for sale housing projects.

(2) At least 30 percent of the total amount of the grant and the match shall be expended on projects, units, or shelters that are affordable to, and restricted for, extremely low income persons and families, as defined in Section 50106. No more than 20 percent of the total amount of the grant and the match shall be expended on projects or units affordable to, and restricted for, moderate-income persons and families whose income does not exceed 120 percent of the area median income. The remaining funds shall be used for projects, units, or shelters that are affordable to, and restricted for, lower income persons and families, as defined in Section 50079.5.

(3) If funds are used for the acquisition, construction, or rehabilitation of for sale housing projects or units within for sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50025.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity sharing agreement. The grantee shall reuse the proceeds of the equity sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan repayments shall accrue to the department for use in the program or its successor.

(f) In order for a city, county, or city and county to be eligible for funding, the applicant shall have, at the time of application, an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that have, at the time of application, an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(g) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of

receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(h) No more than 5 percent of the funds appropriated to the department for the purposes of this program shall be used to pay the costs of administration of this section.

(i) A local housing trust fund shall encumber funds provided pursuant to this section no later than 36 months after receipt. Any funds not encumbered within that period shall revert to the department for use in the program or its successor.

(j) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31 of each year in which funds are awarded by the program, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds received.

SEC. 5. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 12201) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to Section 42(d)(5)(C) of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu

of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with

the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to

enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (3) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the

following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

SEC. 6. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(E) For buildings located in designated difficult development areas or qualified census tracts as defined in Section 42(d)(5)(C) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) The aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, providing the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan,

the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 7. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(E) For buildings located in designated difficult development areas or qualified census tracts as defined in Section 42(d)(5)(C) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, shall be equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed at any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and this agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto, and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan,

the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate that there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case where the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) Any unused credit may continue to be carried forward, as provided in subdivision (k), until the credit has been exhausted.

This section shall remain in effect on or after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(s) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order that local housing trusts may continue to encumber funds provided pursuant to Section 50843 of the Health and Safety Code for an additional two years, it is necessary that this act take effect immediately.

CHAPTER 893

An act to amend Section 15360 of the Elections Code, relating to elections.

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

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

SECTION 1. Section 15360 of the Elections Code is amended to read:

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including absent voters' ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts should be less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

In addition to the 1 percent count, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

Additional precincts for the manual tally may be selected at the discretion of the elections official.

(b) If absentee ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the

Secretary of State to randomly choose the initial precincts or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts to be tallied prior to conducting the tally and selection.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

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 894

An act to amend Section 15360 of the Elections Code, relating to elections.

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

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

SECTION 1. Section 15360 of the Elections Code is amended to read:

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including absent voters' ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

Additional precincts for the manual tally may be selected at the discretion of the elections official.

(b) If absentee ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts to be tallied prior to conducting the tally and selection.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

SEC. 2. This bill shall become operative only if Senate Bill 1235 of the 2005–06 Regular Session is enacted and becomes effective on or before January 1, 2007.

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 895

An act to amend Sections 1266.9, 1279, and 1422 of, to amend and repeal Section 1280.1 of, and to add Sections 1280.3 and 1280.6 to, the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 protection of residents in California's long-term health care facilities is of paramount importance to the citizens of California.

(b) During the last two decades, the Legislature has enacted numerous nursing home reform measures designed to improve residents' rights, increase minimum staffing levels, and protect residents from abuse, neglect, and exploitation.

(c) While federal regulations and state statutory provisions overlap in some areas, there are numerous state requirements that exceed federal law and provide greater protection to residents of long-term health care facilities.

(d) The State Department of Health Services has not developed survey protocols for examining compliance with state regulatory and statutory standards during regular inspections.

(e) Nursing homes that do not participate in the federal Medicare Program or Medicaid Program are not being inspected on a regular basis.

(f) Existing state law requires the State Department of Health Services to establish and maintain an inspection and reporting system to ensure that long-term health care facilities are in compliance with California statutes and regulations.

(g) Therefore, it is the intent of the Legislature to enact legislation to do both of the following:

(1) Ensure that California's standards for licensure of long-term health care facilities are maintained.

(2) Ensure that long-term health care facilities are inspected for compliance with state standards to the extent that those standards provide greater protection to residents, or are more precise than federal standards.

SEC. 2 Section 1266.9 of the Health and Safety Code is amended to read:

1266.9. There is hereby created in the State Treasury the State Department of Health Services, Licensing and Certification Program Fund. The revenue collected in accordance with Section 1266 shall be

deposited in the Licensing and Certification Program Fund and shall be available for expenditure, upon appropriation by the Legislature, to support the Licensing and Certification Program's operation. Interest earned on the funds in the Licensing and Certification Program Fund shall be deposited as revenue into the account to support the Licensing and Certification Program's operation.

SEC. 3. Section 1279 of the Health and Safety Code is amended to read:

1279. (a) Every health facility for which a license or special permit has been issued shall be periodically inspected by the department, or by another governmental entity under contract with the department. The frequency of inspections shall vary, depending upon the type and complexity of the health facility or special service to be inspected, unless otherwise specified by state or federal law or regulation. The inspection shall include participation by the California Medical Association consistent with the manner in which it participated in inspections, as provided in Section 1282 prior to September 15, 1992.

(b) Except as provided in subdivision (c), inspections shall be conducted no less than once every two years and as often as necessary to ensure the quality of care being provided.

(c) For a health facility specified in subdivision (a), (b), or (f) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to ensure the quality of care being provided.

(d) During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.

(e) For acute care hospitals of 100 beds or more, the inspection team shall include at least a physician, registered nurse, and persons experienced in hospital administration and sanitary inspections. During the inspection, the team shall offer advice and assistance to the hospital as it deems appropriate.

(f) The department shall ensure that a periodic inspection conducted pursuant to this section is not announced in advance of the date of inspection. An inspection may be conducted jointly with inspections by entities specified in Section 1282. However, if the department conducts an inspection jointly with an entity specified in Section 1282 that provides notice in advance of the periodic inspection, the department shall conduct an additional periodic inspection that is not announced or noticed to the health facility.

(g) Notwithstanding any other provision of law, the department shall inspect for compliance with provisions of state law and regulations during

a state or federal periodic inspection, including, but not limited to, an inspection required under this section.

SEC. 4. Section 1280.1 of the Health and Safety Code is amended to read:

1280.1. (a) If a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250 receives a notice of deficiency constituting an immediate jeopardy to the health or safety of a patient and is required to submit a plan of correction, the department may assess the licensee an administrative penalty in an amount not to exceed twenty-five thousand dollars ($25,000) per violation.

(b) If the licensee disputes a determination by the department regarding the alleged deficiency or the alleged failure to correct a deficiency, or regarding the reasonableness of the proposed deadline for correction or the amount of the penalty, the licensee may, within 10 days, request a hearing pursuant to Section 100171. Penalties shall be paid when appeals have been exhausted and the department's position has been upheld.

(c) For purposes of this section "immediate jeopardy" means a situation in which the licensee's noncompliance with one or more requirements of licensure has caused, or is likely to cause, serious injury or death to the patient.

(d) This section shall apply only to incidents occurring on or after January 1, 2007.

(e) No new regulations are required or authorized for implementation of this section.

SEC. 5. Section 1280.3 is added to the Health and Safety Code, to read:

1280.3. (a) Commencing on the effective date of the regulations adopted pursuant to this section, the director may assess an administrative penalty in an amount of up to fifty thousand dollars ($50,000) per immediate jeopardy violation, as defined in Section 1280.1, against a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250.

(b) Except as provided in subdivision (c), for a violation of this chapter or the rules and regulations promulgated thereunder that does not constitute a violation of subdivision (a), the department may assess an administrative penalty in an amount of up to seventeen thousand five hundred dollars ($17,500) per violation.

The department shall promulgate regulations establishing the criteria to assess an administrative penalty against a health facility licensed pursuant to subdivisions (a), (b), or (f) of Section 1250. The criteria shall include, but need not be limited to, the following:

(1) The patient's physical and mental condition.

(2) The probability and severity of the risk that the violation presents to the patient.

(3) The actual financial harm to patients, if any.

(4) The nature, scope, and severity of the violation.

(5) The facility's history of compliance with related state and federal statutes and regulations.

(6) Factors beyond the facility's control that restrict the facility's ability to comply with this chapter or the rules and regulations promulgated thereunder.

(7) The demonstrated willfulness of the violation.

(8) The extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from recurring.

(c) The department shall not assess an administrative penalty for minor violations.

(d) The regulations shall not change the definition of immediate jeopardy as established in Section 1280.1.

(e) The regulations shall apply only to incidents occurring on or after the effective date of the regulations.

(f) If the licensee disputes a determination by the department regarding the alleged deficiency or alleged failure to correct a deficiency, or regarding the reasonableness of the proposed deadline for correction or the amount of the penalty, the licensee may, within 10 working days, request a hearing pursuant to Section 100171. Penalties shall be paid when all appeals have been exhausted and the department's position has been upheld.

(g) Moneys collected by the department as a result of administrative penalties imposed under this section and Section 1280.1 shall be deposited into the Licensing and Certification Program Fund established pursuant to Section 1266.9. These moneys shall be tracked and available for expenditure, upon appropriation by the Legislature, to support internal departmental quality improvement activities.

SEC. 5.5. Section 1280.6 is added to the Health and Safety Code, to read:

1280.6. In assessing an administrative penalty pursuant to Section 1280.1 or Section 1280.3 against a licensee of a health facility licensed under subdivision (a) of Section 1250 owned by a nonprofit corporation that shares an identical board of directors with a nonprofit health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340), the director shall consider whether the deficiency arises from an incident that is the subject of investigation of, or has resulted in a fine to, the health care service plan by the Department of Managed Health Care. If the deficiency results from the same incident, the director shall

limit the administrative penalty to take into consideration the penalty imposed by the Department of Managed Health Care.

SEC. 6. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to ensure that long-term health care facilities provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982 to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective. It is the intent of the Legislature to create a survey process that includes state-based survey components and that determines compliance with federal and California requirements for certified long-term health care facilities. It is the further intent of the Legislature to execute this inspection in the form of a single survey process, to the extent that this is possible and permitted under federal law. The inability of the state to conduct a single survey in no way exempts the state from the requirement under this section that state-based components be inspected in long-term health care facilities as required by law.

(b) (1) (A) Notwithstanding Section 1279 or any other provision of law, without providing notice of these inspections, the state department, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, shall conduct inspections annually, except with regard to those facilities which have no class "AA," class "A," or class "B" violations in the past 12 months. The state department shall also conduct inspections as may be necessary to ensure the health, safety, and security of patients in long-term health care facilities. Every facility shall be inspected at least once every two years. The department shall vary the cycle in which inspections of long-term health care facilities are conducted to reduce the predictability of the inspections.

(B) Inspections and investigations of long-term health care facilities that are certified by the Medicare Program or the Medicaid Program shall determine compliance with federal standards and California statutes and regulations.

(C) In order to ensure maximum effectiveness of inspections conducted pursuant to this article, the department shall identify all state law standards for the staffing and operation of long-term health care facilities. Initial license and renewal fees for long-term health care facilities may be increased pursuant to Section 1266 in order to recover

any additional costs incurred by the department as a result of this subparagraph.

(2) The state department shall submit to the federal Department of Health and Human Services on or before July 1, 1985, for review and approval, a request to implement a three-year pilot program designed to lessen the predictability of the long-term health care facility inspection process. Two components of the pilot program shall be (A) the elimination of the present practice of entering into a one-year certification agreement, and (B) the conduct of segmented inspections of a sample of facilities with poor inspection records, as defined by the state department. At the conclusion of the pilot project, an analysis of both components shall be conducted by the state department to determine effectiveness in reducing inspection predictability and the respective cost benefits. Implementation of this pilot project is contingent upon federal approval.

(c) Except as otherwise provided in subdivision (b), the state department shall conduct unannounced direct patient care inspections at least annually to inspect physician and surgeon services, nursing services, pharmacy services, dietary services, and activity programs of all the long-term health care facilities. Facilities evidencing repeated serious problems in complying with this chapter or a history of poor performance, or both, shall be subject to periodic unannounced direct patient care inspections during the inspection year. The direct patient care inspections shall assist the state department in the prioritization of its efforts to correct facility deficiencies.

(d) All long-term health care facilities shall report to the state department any changes in the nursing home administrator or the director of nursing services within 10 calendar days of the changes.

(e) Within 90 days after the receipt of notice of a change in the nursing home administrator or the director of nursing services, the state department may conduct an abbreviated inspection of the long-term health care facilities.

(f) If a change in a nursing home administrator occurs and the Board of Nursing Home Administrators notifies the state department that the new administrator is on probation or has had his or her license suspended within the previous three years, the state department shall conduct an abbreviated survey of the long-term health care facility employing that administrator within 90 days of notification.

SEC. 7. Sections 3 and 6 of this act shall become operative on July 1, 2007.

CHAPTER 896

An act to amend Section 8686 of the Government Code, and to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.101, 195.102, and 195.103 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 8686 of the Government Code is amended to read:

8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs.

(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the following events:

(1) The October 17, 1989, Loma Prieta earthquake.

(2) The October 20, 1991, East Bay fire.

(3) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.

(4) The January 17, 1994, Northridge earthquake.

(5) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified in agreements between this state and the United States for federal financial assistance.

(6) The storms that occurred in California in December of 1996 and early January of 1997, as specified in agreements between this state and the United States for federal financial assistance.

(7) The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(8) The wildfires that occurred in southern California commencing October 21, 2003, as specified in agreements between this state and the United States for federal financial assistance.

(9) The December 22, 2003, San Simeon earthquake, as specified in agreements between this state and the United States for federal financial assistance.

(10) The severe storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005, inclusive, in southern California, as specified in agreements between this state and the United States for federal financial assistance.

(11) The severe storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16 to February 23, 2005, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(12) The severe storms, flooding, landslides, and mud and debris flows that occurred in northern California from December 17, 2005, to January 3, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(c) For any federally declared disaster subsequent to January 1, 1995, that the Legislature has designated in subdivision (b), the state shall assume the increased share specified in subdivision (b) in those cases where the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs.

(d) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500) under this section.

SEC. 1.5. Section 8686 of the Government Code is amended to read:

8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs.

(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the following events:

(1) The October 17, 1989, Loma Prieta earthquake.

(2) The October 20, 1991, East Bay fire.

(3) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.

(4) The January 17, 1994, Northridge earthquake.

(5) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified in agreements between this state and the United States for federal financial assistance.

(6) The storms that occurred in California in December of 1996 and early January of 1997, as specified in agreements between this state and the United States for federal financial assistance.

(7) The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(8) The wildfires that occurred in southern California commencing October 21, 2003, as specified in agreements between this state and the United States for federal financial assistance.

(9) The December 22, 2003, San Simeon earthquake, as specified in agreements between this state and the United States for federal financial assistance.

(10) The severe storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005, inclusive, in

southern California, as specified in agreements between this state and the United States for federal financial assistance.

(11) The severe storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16 to February 23, 2005, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(12) The severe storms, flooding, landslides, and mud and debris flows that occurred in northern California from December 17, 2005, to January 3, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(13) The severe storms and flooding that occurred in northern California during the period from March 29, 2006, to April 16, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(c) For any federally declared disaster subsequent to January 1, 1995, that the Legislature has designated in subdivision (b), the state shall assume the increased share specified in subdivision (b) in those cases where the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs.

(d) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500) under this section.

SEC. 2. Section 195.101 is added to the Revenue and Taxation Code, to read:

195.101. (a) In fiscal year 2005–06, the auditors of the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity, which counties were the subject of the Governor's proclamations of a state of emergency for the severe rainstorms that occurred from December 19, 2005, to January 3, 2006, and caused flash floods, mudslides, the accumulation of debris, and that washed-out and damaged roads in those counties, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for the 2005–06 fiscal year resulting from the reassessment by the county assessor pursuant to paragraph (1) of subdivision (a) of Section 170 of those properties that are eligible properties as a result of that disaster, except that the amount certified shall not include any estimated property tax revenue reductions to school districts, other than basic state aid school districts, and county offices of education.

(b) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives

from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 3. Section 195.102 is added to the Revenue and Taxation Code, to read:

195.102. After the county auditor of an eligible county, as described in Section 195.101, has made the applicable certification to the Director of Finance pursuant to that section, the director shall, within 30 days after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days.

SEC. 4. Section 195.103 is added to the Revenue and Taxation Code, to read:

195.103. (a) On or before June 30, 2007, each eligible county, as described in Section 195.101, shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 195.102, less the actual amount of its property tax revenue lost on the regular secured and supplemental rolls with respect to those eligible properties described in Section 195.101 as a result of the reassessment of those properties pursuant to paragraph (1) of subdivision (a) of Section 170, excluding any property tax revenue lost by school districts, other than basic state aid school districts, and county offices of education. If the actual amount of property tax revenue lost by an eligible county in the immediately preceding fiscal year, as described and limited in the preceding sentence, exceeds the amount allocated by the Controller to that county pursuant to Section 195.102, the Controller shall allocate the amount of that excess to that eligible county.

(b) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 5. Section 218 of the Revenue and Taxation Code is amended to read:

218. (a) The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

(b) The exemption does not extend to property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary

home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption.

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

(1) "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling.

(2) (A) "Dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. A two-dwelling unit shall be considered as two separate single-family dwellings.

(B) "Dwelling" includes the following:

(i) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(ii) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(iii) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (i) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(e) Any dwelling that qualified for an exemption under this section prior to October 15, 2003, that was damaged or destroyed by fire or earthquake in a disaster, as declared by the Governor, during October, November, or December 2003, and that has not changed ownership since October 15, 2003, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(f) Any dwelling that qualified for an exemption under this section prior to June 3, 2004, that was damaged or destroyed by flood in a disaster, as declared by the Governor, during June 2004, and that has not changed ownership since June 3, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(g) Any dwelling that qualified for an exemption under this section prior to August 11, 2004, that was damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in a disaster, as declared by the Governor, during August 2004, and that has not changed ownership since August 11, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(h) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, during December 2004, January 2005, February 2005, March 2005, or June 2005, and that has not changed ownership since December 28, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(i) Any dwelling that qualified for an exemption under this section prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, and that has not changed ownership since December 19, 2005, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(j) The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure, or other shelter and the excess, if any, shall be applied to any land on which it may be located.

SEC. 5.5. Section 218 of the Revenue and Taxation Code is amended to read:

218. (a) The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

(b) The exemption does not extend to property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption.

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

(1) "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling.

(2) (A) "Dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. A two-dwelling unit shall be considered as two separate single-family dwellings.

(B) "Dwelling" includes the following:

(i) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(ii) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(iii) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (i) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(e) Any dwelling that qualified for an exemption under this section prior to October 15, 2003, that was damaged or destroyed by fire or earthquake in a disaster, as declared by the Governor, during October, November, or December 2003, and that has not changed ownership since October 15, 2003, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(f) Any dwelling that qualified for an exemption under this section prior to June 3, 2004, that was damaged or destroyed by flood in a disaster, as declared by the Governor, during June 2004, and that has not changed ownership since June 3, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(g) Any dwelling that qualified for an exemption under this section prior to August 11, 2004, that was damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in a disaster, as declared by the Governor, during August 2004, and that has not changed ownership since August 11, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(h) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, during December 2004, January 2005, February 2005, March 2005, or June 2005, and that has not changed ownership since December 28, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(i) Any dwelling that qualified for an exemption under this section prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, or April 2006, and that has not changed ownership since December 19, 2005, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily

uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(j) The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure, or other shelter and the excess, if any, shall be applied to any land on which it may be located.

SEC. 6. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes that occurred in the County of San Bernardino in June and July of 1992, or any other related casualty.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino,

San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as

a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005 or January 2006.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (27), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 6.5. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes that occurred in the County of San Bernardino in June and July of 1992, or any other related casualty.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Marin, Mariposa, Mendocino, Merced, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba

as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (27), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 7. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005 or January 2006.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster

loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 24416, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (27), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 7.5. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained

in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Marin, Mariposa, Mendocino, Merced, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage,

as set forth in paragraph (1) of subdivision (b) of Section 24416, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (27), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 8. It is the intent of the Legislature to provide in the annual Budget Act those additional reimbursements to local governments that, as a result of Section 4 of this act, are required by Section 25 of Article XIII of the California Constitution.

SEC. 9. The Legislature finds and declares that this act fulfills a statewide public purpose because of all of the following:

(a) The Governor of California has officially proclaimed a state of emergency declaring that the severe rainstorms, flash floods, mudslides, the accumulation of debris, and washed-out and damaged roads, that occurred within the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity, occurring from December 19, 2005, to

January 3, 2006, were natural disasters, thus qualifying affected persons for various forms of governmental assistance and relief.

(b) This act is consistent with, and supplements, the proclaimed disaster assistance and relief by providing necessary fiscal assistance and tax relief to affected jurisdictions and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses.

SEC. 10. 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. 11. (a) Section 1.5 of this bill incorporates amendments to Section 8686 of the Government Code proposed by this bill and Assembly Bill 2735. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 8686 of the Government Code, and (3) this bill is enacted after Assembly Bill 2735, in which case Section 8686 of the Government Code, as amended by Assembly Bill 2735, 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.

(b) Section 5.5 of this bill incorporates amendments to Section 218 of the Revenue and Taxation Code proposed by this bill and Assembly Bill 2735. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 218 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 2735, in which case Section 218 of the Revenue and Taxation Code, as amended by Assembly Bill 2735, shall remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

(c) Section 6.5 of this bill incorporates amendments to Section 17207 of the Revenue and Taxation Code proposed by this bill and Assembly Bill 2735. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 17207 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 2735, in which case Section 17207 of the Revenue and Taxation Code, as amended by Assembly Bill 2735, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

(d) Section 7.5 of this bill incorporates amendments to Section 24347.5 of the Revenue and Taxation Code proposed by this bill and Assembly Bill 2735. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 24347.5 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 2735, in which case Section 24347.5 of the Revenue and Taxation Code, as amended by Assembly Bill 2735, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

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 timely provide essential relief to those persons and jurisdictions who have suffered damage or loss as a result of the series of severe rainstorms that occurred in California from December 19, 2005, to January 3, 2006, it is necessary that this act take effect immediately.

CHAPTER 897

An act to amend Section 8686 of the Government Code, and to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.104, 195.105, and 195.106 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 8686 of the Government Code is amended to read:

8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs.

(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the following events:

(1) The October 17, 1989, Loma Prieta earthquake.

(2) The October 20, 1991, East Bay fire.

(3) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.

(4) The January 17, 1994, Northridge earthquake.

(5) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified in agreements between this state and the United States for federal financial assistance.

(6) The storms that occurred in California in December of 1996 and early January of 1997, as specified in agreements between this state and the United States for federal financial assistance.

(7) The winter storms and flooding that occurred from February 1, 1998, to April 30, 1998, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(8) The wildfires that occurred in southern California commencing October 21, 2003, as specified in agreements between this state and the United States for federal financial assistance.

(9) The December 22, 2003, San Simeon earthquake, as specified in agreements between this state and the United States for federal financial assistance.

(10) The severe storms, flooding, debris flows, and mudslides that occurred during December 27, 2004, to January 11, 2005, inclusive, in southern California, as specified in agreements between this state and the United States for federal financial assistance.

(11) The severe storms, flooding, landslides, and mud and debris flows that occurred in southern California during the period from February 16 to February 23, 2005, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(12) The severe storms, flooding, mudslides, and landslides that occurred in northern California during the period from December 17, 2005, to January 3, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(13) The severe storms and flooding that occurred in northern and central California during the period from March 29, 2006, to April 16, 2006, inclusive, as specified in agreements between this state and the United States for federal financial assistance.

(c) For any federally declared disaster subsequent to January 1, 1995, that the Legislature has designated in subdivision (b), the state shall assume the increased share specified in subdivision (b) in those cases where the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs.

(d) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500) under this section.

SEC. 2. Section 195.104 is added to the Revenue and Taxation Code, to read:

195.104. (a) By September 30, 2006, the auditors of the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba, which were the subject of the Governor's proclamations of a state of emergency for the severe rainstorms that occurred during the period from December 19, 2005, to April 16, 2006, inclusive, that caused flooding, mudslides, the accumulation of debris, and that washed-out and damaged roads in those counties, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for the 2005–06 fiscal year resulting from the reassessment by the county assessor pursuant to paragraph (1) of subdivision (a) of Section 170 of those properties that are eligible properties as a result of that disaster, except that the amount certified shall not include any estimated property tax revenue reductions to school districts, other than basic state aid school districts, and county offices of education.

(b) By September 30, 2006, the auditor of the County of San Bernardino, which was the subject of the Governor's proclamation of a state of emergency for the wildfires that commenced on July 9, 2006, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for the 2005–06 fiscal year resulting from the reassessment by the county assessor pursuant to paragraph (1) of subdivision (a) of Section 170 of those properties that are eligible properties as a result of that disaster, except that the amount certified shall not include any estimated property tax revenue reductions to school districts, other than basic state aid school districts, and county offices of education.

(c) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 3. Section 195.105 is added to the Revenue and Taxation Code, to read:

195.105. After the county auditor of an eligible county, as described in Section 195.104, has made the applicable certification to the Director of Finance pursuant to that section, the director shall, within 30 days

after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days.

SEC. 4. Section 195.106 is added to the Revenue and Taxation Code, to read:

195.106. (a) On or before June 30, 2007, each eligible county, as described in Section 195.104, shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 195.105, less the actual amount of its property tax revenue lost on the regular secured and supplemental rolls with respect to those eligible properties described in Section 195.104 as a result of the reassessment of those properties pursuant to paragraph (1) of subdivision (a) of Section 170, excluding any property tax revenue lost by school districts, other than basic state aid school districts, and county offices of education. If the actual amount of property tax revenue lost by an eligible county in the immediately preceding fiscal year, as described and limited in the preceding sentence, exceeds the amount allocated by the Controller to that county pursuant to Section 195.105, the Controller shall allocate the amount of that excess to that eligible county.

(b) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 5. Section 218 of the Revenue and Taxation Code is amended to read:

218. (a) The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

(b) The exemption does not extend to property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption.

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

(1) "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling.

(2) (A) "Dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. A two-dwelling unit shall be considered as two separate single-family dwellings.

(B) "Dwelling" includes the following:

(i) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(ii) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(iii) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (i) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(e) Any dwelling that qualified for an exemption under this section prior to October 15, 2003, that was damaged or destroyed by fire or earthquake in a disaster, as declared by the Governor, during October, November, or December 2003, and that has not changed ownership since October 15, 2003, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(f) Any dwelling that qualified for an exemption under this section prior to June 3, 2004, that was damaged or destroyed by flood in a disaster, as declared by the Governor, during June 2004, and that has not changed ownership since June 3, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(g) Any dwelling that qualified for an exemption under this section prior to August 11, 2004, that was damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in a disaster, as declared by the Governor, during August 2004, and that has not changed ownership since August 11, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

(h) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, during December 2004, January 2005, February 2005, March 2005, or June 2005, and that has not changed ownership since December 28, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(i) Any dwelling that qualified for an exemption under this section prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, April 2006, May 2006, or June 2006, and that has not changed ownership since December 19, 2005, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(j) Any dwelling that qualified for an exemption under this section prior to July 9, 2006, that was damaged or destroyed by the wildfires and any other related casualty that occurred in the County of San Bernardino, as declared by the Governor in July 2006, and that has not changed ownership since July 9, 2006, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the wildfires.

(k) The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure, or other shelter and the excess, if any, shall be applied to any land on which it may be located.

SEC. 6. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes that occurred in the County of San Bernardino in June and July of 1992, or any other related casualty.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, Riverside, San Bernardino, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada,

Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(28) Any loss sustained in the County of San Bernardino as a result of the wildfires that occurred in July 2006.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (28), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 6.5. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes that occurred in the County of San Bernardino in June and July of 1992, or any other related casualty.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne,

Yolo, and Yuba as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(28) Any loss sustained in the County of San Bernardino as a result of the wildfires that occurred in July 2006.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (28), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 7. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, Riverside, San Bernardino, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba as a result of the severe rainstorms,

related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(28) Any loss sustained in the County of San Bernardino as a result of the wildfires that occurred in July 2006.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 24416, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (28), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 7.5. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor's proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any losses sustained as a result of the wildfires that occurred in Shasta County, commencing August 11, 2004, and any other related casualty.

(26) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2004, January 2005, February 2005, March 2005, or June 2005.

(27) Any loss sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne,

Yolo, and Yuba as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006.

(28) Any loss sustained in the County of San Bernardino as a result of the wildfires that occurred in July 2006.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 24416, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (28), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 8. It is the intent of the Legislature to provide in the annual Budget Act those additional reimbursements to local governments that,

as a result of Section 4 of this act, are required by Section 25 of Article XIII of the California Constitution.

SEC. 9. The Legislature finds and declares that this act fulfills a statewide public purpose because of all of the following:

(a) The Governor of California has officially proclaimed a state of emergency declaring that the severe rainstorms, flooding, mudslides, the accumulation of debris, and washed-out and damaged roads, that occurred within the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba that occurred during the period from December 19, 2005, to April 16, 2006, inclusive, were natural disasters, thus qualifying affected persons for various forms of governmental assistance and relief.

(b) The Governor of California has officially proclaimed a state of emergency declaring that the wildfires that occurred within the County of San Bernardino commencing on July 9, 2006, constitute conditions of extreme peril to public health and safety to persons and property within that county, thus qualifying affected persons for various forms of governmental assistance and relief.

(c) This act is consistent with, and supplements, the proclaimed disaster assistance and relief by providing necessary fiscal assistance and tax relief to affected jurisdictions and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses.

SEC. 10. 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. 11. (a) Section 6.5 of this bill incorporates amendments to Section 17207 of the Revenue and Taxation Code proposed by this bill and Assembly Bill 1798. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 17207 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 1798, in which case Section 17207 of the Revenue and Taxation Code, as amended by Assembly Bill 1798, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

(b) Section 7.5 of this bill incorporates amendments to Section 24347.5 of the Revenue and Taxation Code proposed by this bill and Assembly Bill 1798. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) both bills amend Section 24347.5 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 1798, in which case Section 24347.5 of the Revenue and Taxation Code, as amended by Assembly Bill 1798, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

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:

(a) In order to timely provide essential relief to those persons and jurisdictions who have suffered damage or loss as a result of the series of severe rainstorms that occurred in northern California that occurred from December 19, 2005, to April 16, 2006, inclusive, it is necessary that this act take effect immediately.

(b) In order to timely provide essential relief to those persons and jurisdictions who have suffered damage or loss as a result of the wildfires that occurred in the County of San Bernardino commencing on July 9, 2006, it is necessary that this act take effect immediately.

CHAPTER 898

An act to amend Sections 1656.3, 11219.3, and 42001 of, and to add Sections 21070, 42001.19, and 42002.1 to, the Vehicle Code, relating to vehicles.

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

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

SECTION 1. Section 1656.3 of the Vehicle Code is amended to read:

1656.3. (a) The department shall include within the California Driver's Handbook, as specified in subdivision (b) of Section 1656, language regarding each of the following:

(1) Rail transit safety.

(2) Abandonment or dumping of any animal on a highway.

(3) The importance of respecting the right-of-way of others, particularly pedestrians, bicycle riders, and motorcycle riders.

(b) In order to minimize costs, the language referred to in paragraphs (2) and (3) of subdivision (a) shall be initially included at the earliest opportunity when the handbook is otherwise revised or reprinted.

SEC. 2. Section 11219.3 of the Vehicle Code is amended to read:

11219.3. The curriculum prescribed pursuant to Section 11219 shall include, but is not limited to, the following:

(a) The rights and duties of a motorist as they pertain to pedestrians.

(b) The rights and duties of a pedestrian as they relate to traffic laws and traffic safety.

(c) Information that emphasizes respecting the right-of-way of others, particularly with respect to pedestrians, bicycle riders, and motorcycle riders.

SEC. 3. Section 21070 is added to the Vehicle Code, to read:

21070. Notwithstanding any other provision of law, a driver who violates any provision of this division, that is punishable as an infraction, and as a result of that violation proximately causes bodily injury or great bodily injury, as defined in Section 12022.7 of the Penal Code, to another person is guilty of the public offense of unsafe operation of a motor vehicle with bodily injury or great bodily injury. That violation is punishable as an infraction pursuant to Section 42001.19.

SEC. 4. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in this code, a person convicted of an infraction for a violation of this code or of a local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or a subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) A pedestrian convicted of an infraction for a violation of this code or a local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(c) A person convicted of a violation of subdivision (a) or (b) of Section 27150.3 shall be punished by a fine of two hundred fifty dollars ($250), and a person convicted of a violation of subdivision (c) of Section 27150.3 shall be punished by a fine of one thousand dollars ($1,000).

(d) Notwithstanding any other provision of law, a local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code,

the California State University, and the University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. A fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty assessment and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

SEC. 5. Section 42001.19 is added to the Vehicle Code, to read:

42001.19. Notwithstanding any other provision of law, a person convicted of a violation of Section 21070 is punishable, as follows:

(a) For a violation involving bodily injury, by a fine of seventy dollars ($70).

(b) For a violation involving great bodily injury, as defined in Section 12022.7 of the Penal Code, by a fine of ninety-five dollars ($95).

SEC. 6. Section 42002.1 is added to the Vehicle Code, to read:

42002.1. A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, shall be punished as follows:

(a) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

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 899

An act to amend Section 42001 of, to add Sections 42001.25 and 42002.1 to, and to repeal Section 13390 of, the Vehicle Code, relating to vehicles.

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

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

SECTION 1. Section 13390 of the Vehicle Code is repealed.

SEC. 2. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in this code, a person convicted of an infraction for a violation of this code or of a local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or a subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) A pedestrian convicted of an infraction for a violation of this code or a local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(c) A person convicted of a violation of subdivision (a) or (b) of Section 27150.3 shall be punished by a fine of two hundred fifty dollars ($250), and a person convicted of a violation of subdivision (c) of Section 27150.3 shall be punished by a fine of one thousand dollars ($1,000).

(d) Notwithstanding any other provision of law, a local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, the California State University, and the University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. A fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty assessment and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

SEC. 3. Section 42001.25 is added to the Vehicle Code, to read:

42001.25. Notwithstanding any other provision of law, a person who violates Section 23140 is punishable as follows:

(a) By a fine of one hundred dollars ($100).

(b) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine of two hundred dollars ($200).

(c) For a third or any subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine of three hundred dollars ($300).

SEC. 4. Section 42002.1 is added to the Vehicle Code, to read:

42002.1. A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, is punishable as follows:

(a) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

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 900

An act to amend Sections 12810, 21712, and 42001 of, and to add Section 42002.1 to, the Vehicle Code, relating to vehicles.

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

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

SECTION 1. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) A conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) A conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) A conviction of reckless driving shall be given a value of two points.

(d) (1) A conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) or (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(2) A conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a value of two points.

(e) A conviction of a violation of Section 14601, 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

(f) Except as provided in subdivision (i), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(g) A traffic accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(h) A conviction of a violation of Section 27360 or 27360.5 shall be given a value of one point.

(i) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) A conviction of a violation of paragraph (1) or (2) of subdivision (b) of Section 12814.6, subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or 26707 shall not be given a violation point count.

(3) A violation of subdivision (d) of Section 21712 shall not result in a violation point count.

(4) A violation of Section 23136 shall not result in a violation point count.

(5) A violation of Section 38301.3 shall not result in a violation point count.

(j) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

SEC. 2. Section 21712 of the Vehicle Code is amended to read:

21712. (a) A person driving a motor vehicle shall not knowingly permit a person to ride on a vehicle or upon a portion of a vehicle that is not designed or intended for the use of passengers.

(b) A person shall not ride on a vehicle or upon a portion of a vehicle that is not designed or intended for the use of passengers.

(c) A person driving a motor vehicle shall not knowingly permit a person to ride in the trunk of that motor vehicle.

(d) A person shall not ride in the trunk of a motor vehicle.

(e) A person violating subdivision (c) or (d) shall be punished as follows:

(1) By a fine of one hundred dollars ($100).

(2) For a second violation occurring within one year of a prior violation that resulted in a conviction, a fine of two hundred dollars ($200).

(3) For a third or a subsequent violation occurring within one year of two or more prior violations that resulted in convictions, a fine of two hundred fifty dollars ($250).

(f) Subdivisions (a) and (b) do not apply to an employee engaged in the necessary discharge of his or her duty or in the case of persons riding completely within or upon vehicle bodies in the space intended for a load on the vehicle.

(g) A person shall not drive a motor vehicle that is towing a trailer coach, camp trailer, or trailer carrying a vessel, containing a passenger, except when a trailer carrying or designed to carry a vessel is engaged in the launching or recovery of the vessel.

(h) A person shall not knowingly drive a motor vehicle that is towing a person riding upon a motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled, skis, or toy vehicle.

(i) Subdivision (g) does not apply to a trailer coach that is towed with a fifth-wheel device if the trailer coach is equipped with safety glazing materials wherever glazing materials are used in windows or doors, with an audible or visual signaling device that a passenger inside the trailer coach can use to gain the attention of the motor vehicle driver, and with at least one unobstructed exit capable of being opened from both the interior and exterior of the trailer coach.

SEC. 3. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in this code, a person convicted of an infraction for a violation of this code or of a local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) A pedestrian convicted of an infraction for a violation of this code or any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(c) A person convicted of a violation of subdivision (a) or (b) of Section 27150.3 shall be punished by a fine of two hundred fifty dollars ($250), and a person convicted of a violation of subdivision (c) of Section 27150.3 shall be punished by a fine of one thousand dollars ($1,000).

(d) Notwithstanding any other provision of law, a local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, the California State University, and the University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. A fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty assessment and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

SEC. 4. Section 42002.1 is added to the Vehicle Code, to read:

42002.1. A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, shall be punished as follows:

(a) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

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 901

An act to amend Section 12838.1 of the Government Code, to amend Sections 1522.1, 11162.5, 121349.2 and 121349.3 of the Health and Safety Code, to amend Sections 19.8, 148.5, 186.22a, 538e, 667.7, 804, 851.8, 3041.7, 6044, 11106, 11165.7, 11166.01, 11167, 12001, 12022.53, and 12553 of, and to amend and renumber Section 646.91A of, and to repeal Section 666.7 of the Penal Code, and to amend Sections 241.1 and 3150 of the Welfare and Institutions Code, relating to public safety.

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

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

SECTION 1. Section 12838.1 of the Government Code is amended to read:

12838.1. (a) There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Operations, the Division of Adult Institutions and the Division of Adult Parole Operations. Each division shall be headed by a division chief, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(b) The Governor shall, upon recommendation of the secretary, appoint five subordinate officers to the Chief of the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

SEC. 1.5. Section 1522.1 of the Health and Safety Code is amended to read:

1522.1. Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by

providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history. The department shall investigate any reports received from the Child Abuse Central Index. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Central Index unless child abuse is substantiated.

SEC. 1.6. Section 11162.5 of the Health and Safety Code is amended to read:

11162.5. (a) Every person who counterfeits a prescription blank purporting to be an official prescription blank prepared and issued pursuant to Section 11161.5, or knowingly possesses more than three counterfeited prescription blanks, shall be punished by imprisonment in the state prison or by imprisonment in a county jail for not more than one year.

(b) Every person who knowingly possesses three or fewer counterfeited prescription blanks purporting to be official prescription blanks prepared and issued pursuant to Section 11161.5, shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 2. Section 121349.2 of the Health and Safety Code is amended to read:

121349.2. Local government, local public health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on an annual basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare of clean needle and syringe exchange programs are addressed and mitigated.

SEC. 3. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. The health officer of the participating jurisdiction shall present annually at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to assure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

SEC. 4. 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, 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.

This section shall become operative on January 1, 2005.

SEC. 5. Section 148.5 of the Penal Code is amended to read:

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, the Attorney General, or a deputy attorney general, or a district attorney, or a deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a state or local agency which is designated in Section 830.1, 830.2, subdivision (e) of Section 830.3, Section 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the employee is engaged in the performance of his or her duties as an agency employee and (2) the person providing the false information knows or should have known that the person

receiving the information is an agency employee engaged in the performance of the duties described in this subdivision.

(d) Every person who makes a report to a grand jury that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor. This subdivision shall not be construed as prohibiting or precluding a charge of perjury or contempt for any report made under oath in an investigation or proceeding before a grand jury.

(e) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

SEC. 5.5. Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (e) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which that criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members that were derived from the criminal activity being abated or enjoined. Only persons who knew or should have known of the unlawful acts shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this subdivision, the Attorney General may use, but is not limited to the use of, the testimony of experts to establish

damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to subdivisions (a) and (b).

(e) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(f) (1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (e) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing and that the failure to respond shall result in a default order forfeiting the confiscated firearm, ammunition, or deadly weapon as a nuisance.

(4) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or will be used in criminal street gang activity or that return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to Section 12021.3.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in Section 12028.

SEC. 6. Section 538e of the Penal Code is amended to read:

538e. (a) Any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, who willfully wears, exhibits, or uses the badge of a fire department or the Office of the State Fire Marshal with the intent of fraudulently impersonating an officer, or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, or which so resembles the authorized badge of an officer or member of a fire department, or a deputy state fire marshal as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of an officer or member of a fire department or a deputy state fire marshal, for the purpose of fraudulently impersonating an officer or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia,

emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of an officer, or member of a fire department or a deputy state fire marshal, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal as would deceive an ordinary reasonable person into believing that it is authorized for use by an officer or member of a fire department or a deputy state fire marshal, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars ($15,000).

(d) Any person who, for the purpose of selling, leasing or otherwise disposing of merchandise, supplies or equipment used in fire prevention or suppression, falsely represents, in any manner whatsoever, to any other person that he or she is a fire marshal, fire inspector or member of a fire department, or that he or she has the approval, endorsement or authorization of any fire marshal, fire inspector or fire department, or member thereof, is guilty of a misdemeanor.

(e) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code representing firefighters or a state or international organization to which it is affiliated.

SEC. 6.1. Section 646.91A of the Penal Code is amended and renumbered to read:

646.91a. (a) The court shall order that any party enjoined pursuant to Section 646.91 be prohibited from taking any action to obtain the address or location of a protected party or a protected party's family members, caretakers, or guardian, unless there is good cause not to make that order.

(b) The Judicial Council shall promulgate forms necessary to effectuate this section.

SEC. 7. Section 666.7 of the Penal Code is repealed.

SEC. 8. Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral

copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping as punished in former subdivision (d) of Section 208, or for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; carjacking involving the use of a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, sexual penetration in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a destructive device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished as follows:

(1) A person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.

(2) Any person convicted of a felony specified in this subdivision who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) of this section shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

SEC. 8.1. Section 804 of the Penal Code is amended to read:

804. Except as otherwise provided in this chapter, for the purpose of this chapter, prosecution for an offense is commenced when any of the following occurs:

(a) An indictment or information is filed.

(b) A complaint is filed charging a misdemeanor or infraction.

(c) A case is certified to the superior court.

(d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint.

SEC. 8.2. Section 851.8 of the Penal Code is amended to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the prosecuting attorney of the county or city having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the prosecuting attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement

agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each such agency, person, or entity within the State of California receiving such a request shall destroy its records of the arrest and such request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the prosecuting attorney of a petition for relief under subdivision (a), the law enforcement agency and prosecuting attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the superior court which would have had territorial jurisdiction over the matter. A copy of such petition shall be served on the prosecuting attorney of the county or city having jurisdiction over the offense at least 10 days prior to the hearing thereon. The prosecuting attorney may present evidence to the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy such records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the

court order to seal and destroy such records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy such records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the prosecuting attorney of the county or city in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The prosecuting attorney may present evidence to the court at such hearing. Such hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the prosecuting attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of such charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which the person was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the

written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) which are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon such records pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of such records has received a certified copy of the complaint in such civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(*l*) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) The provisions of this section shall not apply to any offense which is classified as an infraction.

(o) (1) The provisions of this section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence which is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate division of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any such decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any such decision referred to in this subdivision which is a judgment by the appellate division of the superior court shall be appealed by the Attorney General.

(p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the following appeal path:

(1) In a felony case, appeal is to the court of appeal.

(2) In a misdemeanor case, or in a case in which no accusatory pleading was filed, appeal is to the appellate division of the superior court.

SEC. 8.5. Section 3041.7 of the Penal Code is amended to read:

3041.7. At any hearing for the purpose of setting, postponing, or rescinding a parole release date of a prisoner under a life sentence, the prisoner shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply. The Board of Parole Hearings shall provide by rule for the invitation of the prosecutor of the county from which the prisoner was committed, or his representative, to represent the interests of the people at the hearing. The Board of Parole Hearings shall notify the prosecutor and the Attorney General at least 30 days prior to the date of the hearing.

Notwithstanding Section 12550 of the Government Code, the prosecutor of the county from which the prisoner was committed, or his representative, who shall not be the Attorney General, except in cases in which the Attorney General prosecuted the case at the trial level, shall be the sole representative of the interests of the people.

SEC. 8.6. Section 6044 of the Penal Code is amended to read:

6044. (a) The Council on Mentally Ill Offenders is hereby established within the Department of Corrections and Rehabilitation. The council shall be composed of 11 members, one of whom shall be the secretary of the department who shall be designated as the chairperson, one of whom shall be the Director of Mental Health, and nine of whom shall be appointed. The Governor shall appoint three members, at least one of whom shall represent mental health. The Senate Rules Committee shall appoint two members, one representing law enforcement and one representing mental health. The Speaker of the Assembly shall appoint two members, one representing law enforcement and one representing mental health. The Attorney General shall appoint one member. The Chief Justice of the California Supreme Court shall appoint one member who shall be a superior court judge.

(b) The council shall select a vice chairperson from among its members. Six members of the council shall constitute a quorum.

(c) The Director of Mental Health shall serve as the liaison to the Health and Human Services Agency and any departments within that agency necessary to further the purposes of this article.

(d) Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his or her state or local government employment.

(e) The goal of the council shall be to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who are likely to become offenders or who have a history of offending. The council shall:

(1) Identify strategies for preventing adults and juveniles with mental health needs from becoming offenders.

(2) Identify strategies for improving the cost-effectiveness of services for adults and juveniles with mental health needs who have a history of offending.

(3) Identify incentives to encourage state and local criminal justice, juvenile justice, and mental health programs to adopt cost-effective approaches for serving adults and juveniles with mental health needs who are likely to offend or who have a history of offending.

(f) The council shall consider strategies that:

(1) Improve service coordination among state and local mental health, criminal justice, and juvenile justice programs.

(2) Improve the ability of adult and juvenile offenders with mental health needs to transition successfully between corrections-based, juvenile justice-based, and community-based treatment programs.

(g) The Secretary of the Department of Corrections and Rehabilitation and the Director of Mental Health may furnish for the use of the council those facilities, supplies, and personnel as may be available therefor. The council may secure the assistance of any state agency, department, or instrumentality in the course of its work.

(h) (1) The Council on Mentally Ill Offenders shall file with the Legislature, not later than December 31 of each year, a report that shall provide details of the council's activities during the preceding year. The report shall include recommendations for improving the cost-effectiveness of mental health and criminal justice programs.

(2) After the first year of operation, the council may recommend to the Legislature and Governor modifications to its jurisdiction, composition, and membership that will further the purposes of this article.

(i) The Council on Mentally Ill Offenders is authorized to apply for any funds that may be available from the federal government or other sources to further the purposes of this article.

(j) (1) For purposes of this article, the council shall address the needs of adults and juveniles who meet the following criteria: persons who have been arrested, detained, incarcerated, or are at a significant risk of being arrested, detained, or incarcerated, and who have a mental disorder as defined in Section 1830.205 of Title 9 of the California Code of Regulations.

(2) The council may expand its purview to allow it to identify strategies that are preventive in nature and could be directed to identifiable categories of adults and juveniles that fall outside of the above definitions.

SEC. 9. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) Except as provided in subdivision (d), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not handguns, from forms submitted pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or of the dealers' records of sales for firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and former Section 12084 or any other law, as to handguns and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular handgun and when the firearm was acquired or loaned as listed on the information provided to the

department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular handgun acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular handgun.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or 12285, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the

temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

SEC. 9.5. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

(3) A teacher's aide or teacher's assistant employed by any public or private school.

(4) A classified employee of any public school.

(5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.

(6) An administrator of a public or private day camp.

(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

(9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.

(10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.

(11) A Head Start program teacher.

(12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.

(13) A public assistance worker.

(14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

(15) A social worker, probation officer, or parole officer.

(16) An employee of a school district police or security department.

(17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner, or any other person who performs autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.

(36) A custodial officer as defined in Section 831.5.

(37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

SEC. 10. Section 11166.01 of the Penal Code is amended to read:

11166.01. (a) Except as provided in subdivision (b), any supervisor or administrator who violates paragraph (1) of subdivision (i) of Section 11166 shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(b) Notwithstanding Section 11162 or subdivision (c) of Section 11166, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of this article, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

SEC. 10.5. Section 11167 of the Penal Code is amended to read:

11167. (a) Reports of suspected child abuse or neglect pursuant to Section 11166 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.

(b) Information relevant to the incident of child abuse or neglect may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

(d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency

when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.

SEC. 11. Section 12001 of the Penal Code is amended to read:

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

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

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

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

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

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

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

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

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

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

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

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

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

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

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm

or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

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

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

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

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

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

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

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

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

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

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

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

(r) As used in this title, "gunsmith" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

SEC. 11.1. Section 12022.53 of the Penal Code is amended to read:

12022.53. (a) This section applies to the following felonies:

(1) Section 187 (murder).

(2) Section 203 or 205 (mayhem).

(3) Section 207, 209, or 209.5 (kidnapping).

(4) Section 211 (robbery).

(5) Section 215 (carjacking).

(6) Section 220 (assault with intent to commit a specified felony).

(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).

(8) Section 261 or 262 (rape).

(9) Section 264.1 (rape or sexual penetration in concert).

(10) Section 286 (sodomy).

(11) Section 288 or 288.5 (lewd act on a child).

(12) Section 288a (oral copulation).

(13) Section 289 (sexual penetration).

(14) Section 4500 (assault by a life prisoner).

(15) Section 4501 (assault by a prisoner).

(16) Section 4503 (holding a hostage by a prisoner).

(17) Any felony punishable by death or imprisonment in the state prison for life.

(18) Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(e) (1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:

(A) The person violated subdivision (b) of Section 186.22.

(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).

(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in

Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment for that enhancement pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another enhancement provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(*l*) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

SEC. 12. Section 12553 of the Penal Code is amended to read:

12553. (a) (1) Any person who changes, alters, removes, or obliterates any coloration or markings that are required by any applicable state or federal law or regulation, for any imitation firearm, or device described in subdivision (c) of Section 12555, in any way that makes the imitation firearm or device look more like a firearm is guilty of a misdemeanor.

(2) This subdivision shall not apply to a manufacturer, importer, or distributor of imitation firearms or to the lawful use in theatrical productions, including motion pictures, television, and stage productions.

(b) Any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike or imitation firearm as defined by federal law or regulation is guilty of a misdemeanor.

SEC. 13. Section 241.1 of the Welfare and Institutions Code is amended to read:

241.1. (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies that have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor's status.

(c) Whenever a minor who is under the jurisdiction of the juvenile court of a county pursuant to Section 300, 601, or 602 is alleged to come within the description of Section 300, 601, or 602 by another county, the county probation department or child welfare services department in the county that has jurisdiction under Section 300, 601, or 602 and the county probation department or child welfare services department of the county alleging the minor to be within one of those sections shall

initially determine which status will best serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court in which the petition is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. In making their recommendation to the juvenile court, the departments shall conduct an assessment consistent with the requirements of subdivision (b). Any other juvenile court having jurisdiction over the minor shall receive notice from the court in which the petition is filed within five calendar days of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(d) Except as provided in subdivision (e), nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(e) Notwithstanding subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. No juvenile court may order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include:

(1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child.

(2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship.

(3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by

providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child.

(4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

(5) Counties that exercise the option provided for in this subdivision shall adopt either an "on-hold" system as described in subparagraph (A) or a "lead court/lead agency" system as described in subparagraph (B). In no case shall there be any simultaneous or duplicative case management or services provided by both the county probation department and the child welfare services department. It is the intent of the Legislature that judges, in cases in which more than one judge is involved, shall not issue conflicting orders.

(A) In counties in which an on-hold system is adopted, the dependency jurisdiction shall be suspended or put on hold while the child is subject to jurisdiction as a ward of the court. When it appears that termination of the court's jurisdiction, as established pursuant to Section 601 or 602, is likely and that reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and the child welfare services department shall jointly assess and produce a recommendation for the court regarding whether the court's dependency jurisdiction shall be resumed.

(B) In counties in which a lead court/lead agency system is adopted, the protocol shall include a method for identifying which court or agency will be the lead court/lead agency. That court or agency shall be responsible for case management, conducting statutorily mandated court hearings, and submitting court reports.

SEC. 14. Section 3150 of the Welfare and Institutions Code is amended to read:

3150. (a) Commencing July 1, 2005, any reference to the Narcotic Addict Evaluation Authority refers to the Board of Parole Hearings, any reference to the chairperson of the authority is to the chair of the board, and any reference to a member of the authority is to a commissioner of the board.

(b) The board shall conduct a full and complete study of the cases of all patients who are certified by the Secretary of the Department of Corrections and Rehabilitation to the board as having recovered from addiction or imminent danger of addiction to the extent that release in an outpatient status is warranted.

(c) Members of other similar boards may be assigned to hear cases and make recommendations to the board on these matters. Those recommendations shall be made in accordance with policies established by a majority of the total membership of the board.

SEC. 14.1. The amendments to subdivision (j) of Section 12022.53 in Section 11.1 of this act are declaratory of existing law as set forth by the California Supreme Court in People v. Shabazz (2006) 38 Cal.4th 55, 66-70.

SEC. 15. 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. 16. Any section of any act other than Senate Bill 1852 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 any one or more of the sections affected by this act, shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act other than Senate Bill 1852 that is enacted by the Legislature during the 2006 calendar year and takes effect on or before January 1, 2007, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 902

An act to amend Sections 1265.5, 1338.5, 1416.26, 1522, 1526.5, 1568.07, 1568.09, 1569.17, 1569.24, 1575.7, 1596.871, 1728.1, 1736.6, 1743.9, 106700, and 116735 of, to add Section 1522.08 to, and to add Chapter 2.6 (commencing with Section 1499) to Division 2 of, the Health and Safety Code, and to amend Sections 5405 and 9719 of the Welfare and Institutions Code, relating to health and care.

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

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

SECTION 1. Section 1265.5 of the Health and Safety Code is amended to read:

1265.5. (a) (1) Prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled-nursing, or an intermediate care facility/developmentally disabled, other than an intermediate care facility/developmentally disabled operated by the state that secures criminal record clearances for its employees through a method other than as specified in this section or upon the hiring of direct care staff by any of these facilities, the department shall secure from the Department of Justice criminal offender record information to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation.

(2) The criminal record clearance shall require the applicant to submit electronic fingerprint images and related information of the facility administrator or manager, and any direct care staff, or any other adult living in the same location, to the Department of Justice. Applicants shall be responsible for any cost associated with capturing or transmitting the fingerprint images and related information.

(3) (A) The Licensing and Certification Program shall issue an All Facilities Letter (AFL) to facility licensees when it determines that both of the following criteria have been met for a period of 30 days:

(i) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(ii) The program processes 95 percent of its total responses requiring disqualification in accordance with subdivision (b), with notices mailed to the facility, no later than 45 days after the date that the criminal offender record information report is received from the Department of Justice.

(B) After the AFL is issued, facilities shall not allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(C) An applicant or certificate holder who may be disqualified on the basis of a criminal conviction shall provide the department with a certified copy of the judgment of each conviction. In addition, the individual may, during a period of two years after the department receives

the criminal record report, provide the department with evidence of good character and rehabilitation in accordance with subdivision (c). Upon receipt of a new application for certification of the individual, the department may receive and consider the evidence during the two-year period without requiring additional fingerprint imaging to clear the individual.

(4) The department's Licensing and Certification Program shall explore and implement methods for maximizing its efficiency in processing criminal record clearances within the requirements of law, including a streamlined clearance process for persons that have been disqualified in the basis of criminal convictions that do not require automatic denial pursuant to subdivision (b).

(5) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local governmental agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) (1) The application for licensure or renewal shall be denied if the criminal record indicates that the person seeking initial licensure or renewal of a license referred to in subdivision (a) has been convicted of a violation or attempted violation of any one or more of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273d, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, or Section 487, 488, 496, 503, 518, or 666, unless any of the following applies:

(A) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01)

of Title 6 of Part 3 of the Penal Code and the information or accusation against the person has been dismissed pursuant to Section 1203.4 of the Penal Code with regard to that felony.

(B) The person was convicted of a misdemeanor and the information or accusation against the person has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(C) The person was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department and the department has made a determination in accordance with law that the conviction does not disqualify the person.

(2) The application for licensure or renewal shall be denied if the criminal record of the person includes a conviction in another state for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in paragraph (1), unless evidence of rehabilitation comparable to the dismissal of a misdemeanor or a certificate of rehabilitation as set forth in subparagraph (A) or (B) of paragraph (1) is provided to the department.

(c) If the criminal record of a person described in subdivision (a) indicates any conviction other than a minor traffic violation or other than a conviction listed in subdivision (b), the department may deny the application for licensure or renewal. In determining whether or not to deny the application for licensure or renewal pursuant to this subdivision, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(1) The nature and seriousness of the offense under consideration and its relationship to their employment duties and responsibilities.

(2) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(3) The time that has elapsed since the commission of the conduct or offense referred to in paragraph (1) or (2) and the number of offenses.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(5) Any rehabilitation evidence, including character references, submitted by the person.

(6) Employment history and current employer recommendations.

(7) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(8) The granting by the Governor of a full and unconditional pardon.

(9) A certificate of rehabilitation from a superior court.

(d) Nothing in this section shall be construed to require a criminal record check of a person receiving services in an intermediate care facility/developmentally disabled habilitative, intermediate care

facility/developmentally disabled-nursing, or intermediate care facility/developmentally disabled.

(e) For purposes of this section, "direct care staff" means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Persons employed as consultants and acting as direct care staff shall be subject to the same requirements for a criminal record clearance as other direct care staff. However, the employing facility shall not be required to pay any costs associated with that criminal record clearance.

(f) Upon the employment of any person specified in subdivision (a), and prior to any contact with clients or residents, the facility shall ensure that electronic fingerprint images and related information are submitted to the Department of Justice for the purpose of obtaining a criminal record check.

(g) The 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 1338.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(h) If, at any time, the department determines that it does not meet the standards specified in clauses (i) and (ii) of subparagraph (A) of paragraph (3) of subdivision (a), for a period of 90 consecutive days, the requirements in paragraph (3) of subdivision (a) shall be inoperative until the department can demonstrate that it has met those standards for a period of 90 consecutive days.

(i) During any period of time in which the requirements of subdivision (a) are inoperative, facilities may allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility after those persons have submitted live-scan fingerprint images to the Department of Justice, and the department shall issue an AFL advising facilities of this change in the statutory requirement.

(j) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the

Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 1.5. Section 1265.5 of the Health and Safety Code is amended to read:

1265.5. (a) (1) Prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled nursing, or an intermediate care facility/developmentally disabled, other than an intermediate care facility/developmentally disabled operated by the state that secures criminal record clearances for its employees through a method other than as specified in this section or upon the hiring of direct care staff by any of these facilities, the department shall secure from the Department of Justice criminal offender record information to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation.

(2) (A) The criminal record clearance shall require the applicant to submit electronic fingerprint images and related information of the facility administrator or manager, and any direct care staff, or any other adult living in the same location, to the Department of Justice. Applicants shall be responsible for any cost associated with capturing or transmitting the fingerprint images and related information.

(B) The criminal record clearance shall be completed prior to direct staff contact with residents of the facility. A criminal record clearance shall be complete when the department has obtained the person's criminal record information from the Department of Justice and has determined that he or she is not disqualified from engaging in the activity for which clearance is required.

(3) (A) The Licensing and Certification Program shall issue an All Facilities Letter (AFL) to facility licensees when it determines that both of the following criteria have been met for a period of 30 days:

(i) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(ii) The program processes 95 percent of its total responses requiring disqualification in accordance with subdivision (b), with notices mailed to the facility no later than 45 days after the date that the criminal offender record information report is received from the Department of Justice.

(B) After the AFL is issued, facilities shall not allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(C) An applicant or certificate holder who may be disqualified on the basis of a criminal conviction shall provide the department with a certified copy of the judgment of each conviction. In addition, the individual may, during a period of two years after the department receives the criminal record report, provide the department with evidence of good character and rehabilitation in accordance with subdivision (c). Upon receipt of a new application for certification of the individual, the department may receive and consider the evidence during the two-year period without requiring additional fingerprint imaging to clear the individual.

(D) The department's Licensing and Certification Program shall explore and implement methods for maximizing its efficiency in processing criminal record clearances within the requirements of law, including a streamlined clearance process for persons that have been disqualified in the basis of criminal convictions that do not require automatic denial pursuant to subdivision (b).

(4) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local governmental agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) (1) The application for licensure or renewal shall be denied if the criminal record indicates that the person seeking initial licensure or renewal of a license referred to in subdivision (a) has been convicted of a violation or attempted violation of any one or more of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273d, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, or Section 487, 488, 496, 503, 518, or 666, unless any of the following applies:

(A) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code and the information or accusation against the person has been dismissed pursuant to Section 1203.4 of the Penal Code with regard to that felony.

(B) The person was convicted of a misdemeanor and the information or accusation against the person has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(C) The person was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department and the department has made a determination in accordance with law that the conviction does not disqualify the person.

(2) The application for licensure or renewal shall be denied if the criminal record of the person includes a conviction in another state for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in paragraph (1), unless evidence of rehabilitation comparable to the dismissal of a misdemeanor or a certificate of rehabilitation as set forth in subparagraph (A) or (B) of paragraph (1) is provided to the department.

(c) If the criminal record of a person described in subdivision (a) indicates any conviction other than a minor traffic violation or other than a conviction listed in subdivision (b), the department may deny the application for licensure or renewal. In determining whether or not to deny the application for licensure or renewal pursuant to this subdivision, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(1) The nature and seriousness of the offense under consideration and its relationship to their employment duties and responsibilities.

(2) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(3) The time that has elapsed since the commission of the conduct or offense referred to in paragraph (1) or (2) and the number of offenses.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(5) Any rehabilitation evidence, including character references, submitted by the person.

(6) Employment history and current employer recommendations.

(7) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(8) The granting by the Governor of a full and unconditional pardon.

(9) A certificate of rehabilitation from a superior court.

(d) Nothing in this section shall be construed to require a criminal record check of a person receiving services in an intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, or intermediate care facility/developmentally disabled.

(e) For purposes of this section, "direct care staff" means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Persons employed as consultants and acting as direct care staff shall be subject to the same requirements for a criminal record clearance as other direct care staff. However, the employing facility shall not be required to pay any costs associated with that criminal record clearance.

(f) Upon the employment of any person specified in subdivision (a), and prior to any contact with clients or residents, the facility ensure that electronic fingerprint images are submitted to the Department of Justice for the purpose of obtaining a criminal record check.

(g) The 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 1338.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(h) In addition to the persons who are not required to obtain multiple criminal record clearances pursuant to subdivision (g), a person shall not be required to obtain a separate criminal record clearance if the person meets all of the following criteria:

(1) The person is employed as a consultant and acts as direct care staff.

(2) The person is a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or speech-language pathologist.

(3) The person has obtained a criminal record clearance as a prerequisite to holding a license or certificate to provide direct care services.

(4) The person has a license or certificate to provide direct care service that is in good standing with the appropriate licensing or certification board.

(5) The person is providing time-limited specialized clinical care or services.

(6) The person is not left alone with the client.

(i) If, at any time, the department determines that it does not meet the standards specified in clauses (i) and (ii) of subparagraph (A) of paragraph (3) of subdivision (a), for a period of 90 consecutive days, the requirements in paragraph (3) of subdivision (a) shall be suspended until the department determines that it has met those standards for a period of 90 consecutive days.

(j) During any period of time in which the requirements of paragraph (3) of subdivision (a) are inoperative, facilities may allow newly hired facility administrators, managers, direct care staff, or any other adult living in the same location to have direct contact with clients or residents of the facility after those persons have submitted live-scan fingerprint images to the Department of Justice, and the department shall issue an AFL advising of this change in the statutory requirement.

(k) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 2. Section 1338.5 of the Health and Safety Code is amended to read:

1338.5. (a) (1) (A) A criminal record clearance shall be conducted for all nurse assistants by the submission of fingerprint images and related information to the state department for processing at the Department of Justice. The licensing and certification program shall issue an All Facilities Letter (AFL) to facility licensees when both of the following criteria are met:

(i) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(ii) The program processes 95 percent of its total responses requiring disqualification in accordance with paragraph (2) of subdivision (C) of Section 1337.9, no later than 45 days after the date that the report is received from the Department of Justice.

(B) After the AFL is issued, licensees shall not allow nurse assistant trainees or newly hired nurse assistants to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response information from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required. Notwithstanding any other provision of law, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this paragraph by means of an AFL or similar instruction. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars ($32) per submission.

(C) An applicant or certificate holder who may be disqualified on the basis of a criminal conviction shall provide the department with a certified copy of the judgment of each conviction. In addition, the individual may, during a period of two years after the department receives the criminal record report, provide the department with evidence of good character and rehabilitation in accordance with subdivision (d) of Section 1337.9. Upon receipt of a new application for certification of the individual, the department may receive and consider the evidence during the two-year period without requiring additional fingerprint imaging to clear the individual.

(D) The department's Licensing and Certification Program shall explore and implement methods for maximizing its efficiency in processing criminal record clearances within the requirements of law, including a streamlined clearance process for persons who have been disqualified on the basis of criminal convictions that do not require automatic denial pursuant to paragraph (2) of subdivision (a) of Section 1337.9.

(2) (A) 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.

(B) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(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) 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 and prior to direct contact with residents by the nurse assistant applicant. The department shall explore options to work with private and governmental agencies to ensure that licensees have adequate access to electronic transmission sites, including requiring the department to maintain a contract for electronic transmission services in each of the district offices where facilities have indicated problems with timely access to electronic transmission sites or consistent delays of more than three business days in obtaining appointments for electronic transmission services through a private entity, government agency, or law enforcement agency.

(c) 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.

(d) 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 six months.

(e) If, at any time, the department determines that it does not meet the standards specified in clauses (i) and (ii) of subparagraph (A) of paragraph (1) of subdivision (a), for a period of 90 consecutive days, the requirements in paragraph (1) of subdivision (a) shall be inoperative until the department can demonstrate it has met those standards for a period of 90 consecutive days.

(f) During any time in which the requirements of paragraph (1) of subdivision (a) are inoperative, facilities may allow newly hired nurse assistants to have direct contact with clients or residents of the facility after those persons have submitted livescan fingerprint images to the Department of Justice, and the department shall issue an AFL advising facilities of this change in the statutory requirements.

(g) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 3. Section 1416.26 of the Health and Safety Code is amended to read:

1416.26. (a) As part of the application process for a nursing home administrator license, an applicant shall electronically submit fingerprint images and related information, for a criminal offender record information search, to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice. The applicant shall provide proof of electronic transmission of his or her fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation. Upon receipt of the fingerprint images and

related information, the Department of Justice shall notify the department with a state or federal level criminal offender record information search response. If no state or federal level criminal record information has been recorded, the Department of Justice shall provide the department with a statement of that fact.

(b) This criminal record clearance shall be completed prior to issuing a license. Applicants shall be responsible for any costs associated with the criminal record clearance. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars ($32) for a state level criminal offender record information search, and shall not exceed twenty-four dollars ($24) for a federal level criminal offender record information search.

SEC. 4. Chapter 2.6 (commencing with Section 1499) is added to Division 2 of the Health and Safety Code, to read:

Chapter 2.6. Use of Administrative Action for Licensure

1499. (a) Any person or entity licensed or certificated under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 2.3 (commencing with Section 1400), Chapter 2.35 (commencing with Section 1416), Chapter 3.3 (commencing with Section 1570), Chapter 8 (commencing with Section 1725), Chapter 8.3 (commencing with Section 1743), Chapter 8.5 (commencing with Section 1745), Chapter 8.6 (commencing with Section 1760), or Chapter 11 (commencing with Section 1794.01), or under Section 1247.6 of the Business and Professions Code, shall, in addition to all other requirements, disclose as part of the application for the license or certificate any revocation or other final administrative action taken against a license, certificate, registration, or other approval to engage in a profession, vocation, or occupation, or a license or other permission to operate a facility or institution.

(b) The department may consider, in determining whether to grant or deny the license or certification, any final revocation or other final administrative action taken against a license, certificate, registration, or other permission to engage in a profession, vocation, or occupation or a license or other permission to operate a facility or institution.

(c) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing

requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

SEC. 5. 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. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.

(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 fingerprint images and related information 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 offender record information search response 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.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

(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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, 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 fingerprint images and related information shall be 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 fingerprint images and related information to 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 fingerprint images and related information shall then be submitted to the Department of Justice 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 fingerprint images, 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 fingerprint images. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprint images 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, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, 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 fingerprint images and related information 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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, 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 fingerprint images and related information from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice. A foster family home licensee or foster family agency shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence in the foster family home or certified family home. A foster family agency's failure to submit fingerprint images and related information 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 fingerprint images and related information 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 fingerprint images shall then be submitted to the Department of Justice 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) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(*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. 6. 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, the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative 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 who is subject to a background check, as otherwise provided by law.

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority as a part of the background check process. 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 final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

(c) 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.

(d) For the purposes of this section and Section 1499, "administrative action" means any proceeding initiated by the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority to determine the rights and duties of an applicant, licensee, or other individual or entity over which the department has jurisdiction. "Administrative action" may include, but is not limited to, action involving the denial of an application for, or the suspension or revocation of, any license, special permit, administrator certificate, criminal record clearance, or exemption.

SEC. 7. Section 1526.5 of the Health and Safety Code is amended to read:

1526.5. (a) Within 90 days after a facility accepts its first client for placement following the issuance of a license or special permit pursuant to Section 1525, the department shall inspect the facility. The licensee shall, within five business days after accepting its first client for placement, notify the department that the facility has commenced operating. Foster family homes are exempt from the provisions of this subdivision.

(b) The inspection required by subdivision (a) shall be conducted to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The department may take appropriate remedial action as authorized by this chapter.

SEC. 8. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment

also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with 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.

(5) 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.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee shall discriminate or retaliate in any manner against any person receiving the services of the facility of the licensee, or against any employee of the facility, on the basis, or for the reason, that a person or employee or any other person has initiated or participated in an inspection pursuant to Section 1568.071.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection or evaluation of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 9. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the electronic fingerprint images of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

It is the intent of the Legislature, in enacting this section, to require the electronic fingerprint images of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a residential care facility for persons with chronic, life-threatening illness.

(a) (1) Before issuing a license to any person or persons to operate or manage a residential 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) 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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by this subdivision. 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 subdivision (a) of Section 1568.082. The department may also suspend the license pending an administrative hearing pursuant to subdivision (b) of Section 1568.082.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident 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 residential care facility for persons with chronic, life-threatening illness. 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 residential care facility for persons with chronic, life-threatening illness pursuant to Section 1568.092.

(4) (A) Any staff person, volunteer, or employee who has contact with the residents.

(B) A volunteer shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer does not provide direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, close friend, or family member and provides direct care and supervision to that resident only at the request of the resident. The department may define in regulations persons similar to those described in this subparagraph who may be exempt from the requirements of this subdivision.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) 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.

(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 residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g), prior to the person's employment, residence, or initial presence in the residential care facility.

(B) These fingerprint images and related information shall be electronically submitted to the Department of Justice 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. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), 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 1568.082. The State Department of Social Services may assess civil penalties for continued violations as allowed in Section 1568.0822. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. The licensee shall maintain and make available for inspection documentation of the individual's clearance or exemption.

(2) 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 1568.082. The department may assess civil penalties for continued violations as permitted by Section 1568.0822.

(3) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services 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 licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible. The Department of Justice shall notify the department, as required by Section 1522.04, and shall notify the licensee by mail within 14 days of electronic transmission of the fingerprint images to the Department of Justice, if the person has no criminal history record.

(4) 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 fingerprint images 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 department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential 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 department, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential 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 1568.082.

(5) 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.

(6) Concurrently with notifying the licensee pursuant to paragraph (4), 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 (4).

(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 the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes 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.

(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 as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility as specified in paragraphs (4), (5), and (6) 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 such good character 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 Professional 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 1568.092.

(g) (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 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 clearance to be transferred.

(h) 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 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 10. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. 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 residential care facility for the elderly. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a residential care facility for the elderly.

(a) (1) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, 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) 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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, 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 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal convictions of the following persons:

(1) (A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(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 residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the 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 residential care facility for the elderly pursuant to Section 1569.58.

(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 a similar 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 requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of a client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. These individuals may not be left alone with other clients.

(E) Licensed or certified medical professionals 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 facility licensee or an employee of the facility.

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's 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 facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, 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 facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph 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.

(c) (1) (A) Subsequent to initial licensure, any person required to be fingerprinted pursuant to subdivision (b) shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprint images and related information to the Department of Justice and the

Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care facility for the elderly.

(B) These fingerprint images and related information shall be electronically transmitted in a manner approved by the State Department of Social Services and the Department of Justice. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), 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 1569.50. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The licensee shall then submit these fingerprint images to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. The Department of Justice shall notify the department, as required by Section 1522.04, 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. 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 1569.50. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services 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 licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days

from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible.

(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 the State Department of Social Services determines, on the basis of the fingerprint images 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 in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services 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 residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly 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 by the department. 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 1569.50.

(4) 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.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), 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 (4).

(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 the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a 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.

(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 as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) 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 such good character 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) of Section 451 of the Penal Code.

(2) The director shall notify in writing the licensee or the applicant of his or her decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(3) 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 1569.58.

(g) (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 submitted 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 under this section.

(h) 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 department that the employee has a prior criminal conviction

or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 11. Section 1569.24 of the Health and Safety Code is amended to read:

1569.24. Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

The department may take appropriate remedial action as provided for in this chapter.

SEC. 12. Section 1575.7 of the Health and Safety Code is amended to read:

1575.7. (a) (1) The State Department of Health Services, prior to issuing a new license, shall obtain a criminal record clearance for the administrator, program director, and fiscal officer of the proposed adult day health care center. The department shall obtain the criminal record clearances each time these positions are to be filled. When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities shall not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the

Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(2) The criminal record clearance shall require the administrator, program director, and fiscal officer to submit electronic fingerprint images to the Department of Justice.

(4) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) A past conviction of any crime, especially any crime involving misuse of funds or involving physical abuse shall, in the discretion of the department, be grounds for denial of the license, and shall be grounds to prohibit the person from providing services in an adult day health care center.

(c) Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

(d) No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health care center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

(e) The 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) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level

criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 13. 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. 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. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a child day care facility.

(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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, 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 record 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 fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, 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 fingerprint images for the purpose of obtaining a permanent set of fingerprints shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and 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 fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, 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 fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, 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 fingerprint images.

(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) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 14. Section 1728.1 of the Health and Safety Code is amended to read:

1728.1. (a) To qualify for a home health agency license, the following requirements shall be met:

(1) Every applicant shall satisfy the following conditions:

(A) Be of good moral character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, all principal managing members thereof, and the person in charge of the agency for which application for license is made, shall satisfy this requirement. If the applicant is a political subdivision of the state or other governmental agency, the person in charge of the agency for which application for license is made, shall satisfy this requirement.

(B) Possess and demonstrate the ability to comply with this chapter and the rules and regulations adopted under this chapter by the state department.

(C) File his or her application pursuant to and in full compliance with this chapter.

(2) (A) The following persons shall submit to the State Department of Health Services an application and shall submit electronic fingerprint images to the Department of Justice for the furnishing of the person's criminal record to the state department, at the person's expense as provided in subdivision (b), for the purpose of a criminal record review:

(i) The owner or owners of a private agency if the owners are individuals.

(ii) If the owner of a private agency is a corporation, partnership, or association, any person having a 10 percent or greater interest in that corporation, partnership, or association.

(iii) The administrator of a home health agency.

(B) When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities must not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(b) The persons specified in paragraph (2) of subdivision (a) shall be responsible for any costs associated with transmitting the electronic fingerprint images. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars ($32) per submission.

(c) If the criminal record review conducted pursuant to paragraph (2) of subdivision (a) discloses a conviction for a felony or any crime that evidences an unfitness to provide home health services, the application for a license shall be denied or the person shall be prohibited from providing service in the home health agency applying for a license. This subdivision shall not apply to deny a license or prohibit the provision of service if the person presents evidence satisfactory to the state department that the person has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the home health agency.

(d) An applicant and any other person specified in this section, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every

applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

SEC. 15. Section 1736.6 of the Health and Safety Code is amended to read:

1736.6. (a) (1) A criminal record clearance shall be conducted by the department for all home health aides by electronically submitting fingerprint images and related information to the Department of Justice. The Licensing and Certification Program shall issue an All Facilities Letter (AFL) to facility licensees when it determines that both of the following criteria have been met for a period of 30 days:

(A) The program receives, within three business days, 95 percent of its total responses indicating no evidence of recorded criminal information from the Department of Justice.

(B) The program processes 95 percent of its total responses requiring disqualification with notices mailed to the individual in accordance with subdivision (a) of Section 1736.5, no later than 45 days after the date that the report is received from the Department of Justice.

(2) After the AFL is issued, facilities must not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required. Applicants shall be responsible for any costs associated with capturing or transmitting the fingerprint images and related information. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars ($32) per submission.

(3) An applicant or certificate holder who may be disqualified on the basis of a criminal conviction shall provide the department with a certified copy of the judgment of each conviction. In addition, the individual may, during a period of two years after the department receives the criminal record report, provide the department with evidence of good character and rehabilitation in accordance with subdivision (a) of Section

1736.5. Upon receipt of a new application for certification of the individual, the department may receive and consider the evidence during the two-year period without requiring additional fingerprint imaging to clear the individual.

(4) The department's Licensing and Certification Program shall explore and implement methods for maximizing its efficiency in processing criminal record clearances within the requirements of law, including a streamlined clearance process for persons that have been disqualified in the basis of criminal convictions that do not require automatic denial pursuant to subdivision (a) of Section 1736.5.

(b) Upon enrollment in a training program for home health aide certification, and prior to direct contact with residents, a candidate for training shall submit a training and examination application to the department and submit electronic fingerprint images and related information to receive a criminal record review through the Department of Justice. This criminal record clearance shall be completed prior to direct contact with residents. Submission of the fingerprint images to the Federal Bureau of Investigation, through the Department of Justice, shall be at the discretion of the state department.

(c) A criminal record clearance, consistent with this section shall be implemented for home health aide applicants beginning July 1, 1998, and phased in for all certified home health aides by June 30, 2000.

(d) The 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 1265.6 or 1338.5 shall not be required to obtain multiple criminal record clearances.

(e) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(f) If, at any time, the department determines that it does not meet the standards specified in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) for a period of 90 consecutive days, the requirements in subdivision (a) shall be inoperative until the department determines that that it has met those standards for a period of 90 consecutive days.

(g) During any period of time in which the requirements of subdivision (a) are inoperative, home health agencies may allow newly hired home health aides to have direct contact with patients after those persons have submitted live-scan fingerprint images to the Department of Justice, and the department shall issue an AFL advising facilities of this change in the statutory requirement.

(h) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 16. Section 1743.9 of the Health and Safety Code is amended to read:

1743.9. (a) To qualify for a private duty nursing agency license, the following requirements shall be met:

(1) Every applicant shall satisfy the following conditions:

(A) Be of good moral character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, all principal managing members thereof, and the person in charge of the agency for which application for a license is made, shall satisfy this requirement. If the applicant is a political subdivision of the state or other governmental agency, the person in charge of the agency for which application for a license is made shall satisfy this requirement.

(B) Possess and demonstrate the ability to comply with this chapter and the rules and regulations adopted under this chapter by the department.

(C) File his or her application pursuant to and in full compliance with this chapter.

(2) (A) The following persons shall submit to the department an application, and shall submit fingerprint images and related information to the Department of Justice, for the furnishing of the person's criminal

record to the department, at the person's expense as provided in subdivision (b), for the purpose of a criminal record review:

(i) The owner or owners of a private agency if the owners are individuals.

(ii) If the owner of a private agency is a corporation, partnership, or association, any person having a 10 percent or greater interest in that corporation, partnership, or association.

(iii) The administrator of a private duty nursing agency.

(3) When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities shall not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the initial record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which the clearance is required.

(b) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

(4) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency

and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(c) The persons specified in paragraph (2) of subdivision (a) shall be responsible for any costs associated with capturing or transmitting the fingerprint images and related information. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the electronic fingerprint images and related information, shall not exceed thirty-two dollars ($32) per submission.

(d) If the criminal record review conducted pursuant to paragraph (2) of subdivision (a) discloses a conviction for a felony or any crime that evidences an unfitness to provide private duty nursing services, the application for a license shall be denied, or the person shall be prohibited from providing service in the private duty nursing agency applying for a license. This subdivision shall not apply to deny a license or prohibit the provision of service if the person presents evidence satisfactory to the department that the person has been rehabilitated and presently is of that good character that justifies the issuance of the license or the provision of service in the private duty nursing agency.

SEC. 18. Section 106700 of the Health and Safety Code is amended to read:

106700. (a) A nonreturnable fee shall be paid by a person for each application for registration, application for examination, and biennial renewal.

(b) Fees shall not exceed the actual administrative costs of the program. Fees, except retired and penalty fees, shall be subject to Section 100425. The actual dollar figure charged shall be rounded to the nearest whole dollar amount. The biennial renewal fee-retired shall be twenty-five dollars ($25).

(c) The nonreturnable biennial renewal fee shall be paid by each registered environmental health specialist on or before the first day of January of every second year, or on any other date that is determined by the department. Each registered environmental health specialist registered pursuant to this article shall first pay the biennial fee at the time of initial registration to cover the calendar year in which registration is acquired and the following calendar year. Registrations not maintained as required by this subdivision are suspended and remain invalid during the period of suspension. Suspended registrations become revoked three years after

the date of suspension. Notwithstanding the provisions of the Government Code, the executive officer shall revoke suspended registrations after three years from the date of suspension for nonpayment of fees.

(d) An additional penalty fee equal to 50 percent of the biennial renewal fee for each year of delinquency or portion thereof shall be paid by each person who fails to pay the fee required by subdivision (c) within 30 days of the established due date. All accumulated penalty fees shall be paid prior to any revalidation of registration.

(e) The department shall receive and account for all money received pursuant to this article and shall deposit it with the Treasurer who shall keep the money in a separate fund to be known as the "Registered Environmental Health Specialist Fund," which fund is hereby created.

(f) Notwithstanding Section 13340 of the Government Code, funds collected pursuant to the provisions of this article are continuously appropriated without regard to fiscal year to pay expenses of the department to administer the provisions of this article.

(g) The following fees are hereby established and shall be annually adjusted as required by subdivision (b):

(1) Application fee—ninety-five dollars ($95).

(2) Examination fee—one hundred and twenty-six dollars ($126).

(3) Biennial renewal fee—active—one hundred and seventy-five dollars ($175).

SEC. 19. Section 116735 of the Health and Safety Code is amended to read:

116735. (a) In order to carry out the purposes of this chapter, any duly authorized representative of the department may, at any reasonable hour of the day, do any of the following:

(1) Enter and inspect any public water system or any place where the public water system records are stored, kept, or maintained.

(2) Inspect and copy any records, reports, test results, or other information required to carry out this chapter.

(3) Set up and maintain monitoring equipment for purposes of assessing compliance with this chapter.

(4) Obtain samples of the water supply.

(5) Photograph any portion of the system, any activity, or any sample taken.

(b) The department shall inspect each public water system as follows:

(1) A system with any surface water source with treatment shall be inspected annually.

(2) A system with any groundwater source subject to treatment with only groundwater sources shall be inspected biennially.

(3) A system with only groundwater sources not subject to treatment shall be inspected every three years.

(c) Nothing in this section shall prohibit the department from inspecting public water systems on a more frequent basis. An opportunity shall be provided for a representative of the public water system to accompany the representative of the department during the inspection of the water system.

(d) It shall be a misdemeanor for any person to prevent, interfere with, or attempt to impede in any way any duly authorized representative of the department from undertaking the activities authorized by subdivision (a).

SEC. 20. Section 5405 of the Welfare and Institutions Code is amended to read:

5405. (a) This section shall apply to each facility licensed by the State Department of Mental Health, or its delegated agent, on or after January 1, 2003. For purposes of this section, "facility" includes psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, licensed pursuant to Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations and mental health rehabilitation centers licensed pursuant to Chapter 3.5 (commencing with Section 781.00) of Division 1 of Title 9 of the California Code of Regulations.

(b) (1) (A) Prior to the initial licensure or first renewal of a license on or after January 1, 2003, of any person to operate or manage a facility specified in subdivision (a), the department shall submit fingerprint images and related information pertaining to the applicant or licensee to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the applicant or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department may take into consideration information obtained from or provided by other government agencies. The department shall determine whether the applicant or licensee has ever been convicted of a crime specified in subdivision (c). The department shall submit fingerprint images and related information each time the position of administrator, manager, program director, or fiscal officer of a facility is filled and prior to actual employment for initial licensure or an individual who is initially hired on or after January 1, 2003. For purposes of this subdivision, "applicant" and "licensee" include the administrator, manager, program director, or fiscal officer of a facility.

(B) Commencing January 1, 2003, upon the employment of, or contract with or for, any direct care staff the department shall submit fingerprint images and related information pertaining to the direct care staff person to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct care staff person or licensee. The Department of Justice shall provide the

results of the criminal record check to the department. The department shall determine whether the direct care staff person has ever been convicted of a crime specified in subdivision (c). The department shall notify the licensee of these results. No direct client contact by the trainee or newly hired staff, or by any direct care contractor shall occur prior to clearance by the department unless the trainee, newly hired employee, contractor, or employee of the contractor is constantly supervised.

(C) Commencing January 1, 2003, any contract for services provided directly to patients or residents shall contain provisions to ensure that the direct services contractor submits to the department fingerprint images and related information pertaining to the direct services contractor for submission to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct services contractor or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department shall determine whether the direct services contractor has ever been convicted of a crime specified in subdivision (c). The department shall notify the licensee of these results.

(2) If the applicant, licensee, direct care staff person, or direct services contractor specified in paragraph (1) has resided in California for at least the previous seven years, the department shall only require the submission of one set of fingerprint images and related information. The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the fingerprint submission. Fingerprints and related information submitted pursuant to this subdivision include fingerprint images captured and transmitted electronically. When requested, the Department of Justice shall forward one set of fingerprint images to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions or arrests pending adjudication of the applicant, licensee, direct care staff person, or direct services contractor. The results of a criminal record check provided by the Department of Justice shall contain every conviction rendered against an applicant, licensee, direct care staff person, or direct services contractor, and every offense for which the applicant, licensee, direct care staff person, or direct services contractor is presently awaiting trial, whether the person is incarcerated or has been released on bail or on his or her own recognizance pending trial. The department shall request subsequent arrest notification from the Department of Justice pursuant to Section 11105.2 of the Penal Code.

(3) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information

provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(c) (1) The department shall deny any application for any license, suspend or revoke any existing license, and disapprove or revoke any employment or contract for direct services, if the applicant, licensee, employee, or direct services contractor has been convicted of, or incarcerated for, a felony defined in subdivision (c) of Section 667.5 of, or subdivision (c) of Section 1192.7 of, the Penal Code, within the preceding 10 years.

(2) The application for licensure or renewal of any license shall be denied, and any employment or contract to provide direct services shall be disapproved or revoked, if the criminal record of the person includes a conviction in another jurisdiction for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses referred to in paragraph (1).

(d) (1) The department may approve an application for, or renewal of, a license, or continue any employment or contract for direct services, if the person has been convicted of a misdemeanor offense that is not a crime upon the person of another, the nature of which has no bearing upon the duties for which the person will perform as a licensee, direct care staff person, or direct services contractor. In determining whether to approve the application, employment, or contract for direct services, the department shall take into consideration the factors enumerated in paragraph (2).

(2) Notwithstanding subdivision (c), if the criminal record of a person indicates any conviction other than a minor traffic violation, the department may deny the application for license or renewal, and may disapprove or revoke any employment or contract for direct services. In determining whether or not to deny the application for licensure or renewal, or to disapprove or revoke any employment or contract for direct services, the department shall take into consideration the following factors:

(A) The nature and seriousness of the offense under consideration and its relationship to the person's employment, duties, and responsibilities.

(B) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(C) The time that has elapsed since the commission of the conduct or offense and the number of offenses.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any rehabilitation evidence, including character references, submitted by the person.

(F) Employment history and current employer recommendations.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(I) A certificate of rehabilitation from a superior court.

(e) Denial, suspension, or revocation of a license, or disapproval or revocation of any employment or contract for direct services specified in subdivision (c) and paragraph (2) of subdivision (d) are not subject to appeal, except as provided in subdivision (f).

(f) After a review of the record, the director may grant an exemption from denial, suspension, or revocation of any license, or disapproval of any employment or contract for direct services, if the crime for which the person was convicted was a property crime that did not involve injury to any person and the director has substantial and convincing evidence to support a reasonable belief that the person is of such good character as to justify issuance or renewal of the license or approval of the employment or contract.

(g) A plea or verdict of guilty, or a conviction following a plea of nolo contendere shall be deemed a conviction within the meaning of this section. The department may deny any application, or deny, suspend, or revoke a license, or disapprove or revoke any employment or contract for direct services based on a conviction specified in subdivision (c) when the judgment of conviction is entered or when an order granting probation is made suspending the imposition of sentence.

(h) (1) For purposes of this section, "direct care staff" means any person who is an employee, contractor, or volunteer who has contact with other patients or residents in the provision of services. Administrative and licensed personnel shall be considered direct care staff when directly providing program services to participants.

(2) An additional background check shall not be required pursuant to this section if the direct care staff or licensee has received a prior

criminal history background check while working in a mental health rehabilitation center or psychiatric health facility licensed by the department, and provided the department has maintained continuous subsequent arrest notification on the individual from the Department of Justice since the prior criminal background check was initiated.

(3) When an application is denied on the basis of a conviction pursuant to this section, the department shall provide the individual whose application was denied with notice, in writing, of the specific grounds for the proposed denial.

SEC. 21. Section 9719 of the Welfare and Institutions Code is amended to read:

9719. (a) The office shall sponsor a meeting of representatives of approved organizations at least twice each year. The office shall provide training to these representatives as appropriate. Prior to the certification, by the office, of an ombudsman, individuals shall meet the following requirements:

(1) Have a criminal offender record clearance conducted by the State Department of Social Services. A clearance pursuant to Section 1569.17 of the Health and Safety Code shall constitute clearances for the purpose of entry to any long-term care facility.

(2) Have received a minimum of 36 hours of training approved by the office.

(3) Have received a minimum of 12 hours of additional training annually.

(b) Beginning July 1, 2007, the State Department of Social Services shall conduct a criminal offender record information search, pursuant to Section 1569.17 of the Health and Safety Code, for applicants seeking certification as ombudsmen. The department shall notify the individual and the office of the individual's clearance or denial.

(c) Within a reasonable time after July 1, 2007, the office shall seek the clearance of all ombudsmen already certified or designated as of July 1, 2007. Applicants for certification as an ombudsman and any currently certified or designated ombudsman shall not be responsible for any costs associated with transmitting the fingerprint images and related information or conducting criminal record clearances.

(d) Nothing in this section shall be construed to prohibit the Department of Justice from assessing a fee pursuant to Section 11105 of the Penal Code to cover the cost of searching for or furnishing summary criminal offender record information.

SEC. 22. Section 1.5 of this bill incorporates amendments to Section 1265.5 of the Health and Safety Code proposed by both this bill and AB 2654. 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 1265.5 of the Health and Safety Code, and (3) this bill is enacted after AB 2654, in which case Section 1 of this bill shall not become operative.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 903

An act to amend Sections 8592.1, 8592.4, and 8592.5 of the Government Code, relating to public safety.

[Approved by Governor September 30, 2006. Filed with Secretary of State September 30, 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 need to enhance the ability of public safety agencies from neighboring cities, adjacent counties, and across the state to communicate with one another during emergencies has become more evident and essential since the terrorist attacks on September 11, 2001. The events of September 11, as well as recent federally declared natural disasters, clearly demonstrated the need for law enforcement, firefighters, emergency medical services personnel, and related public and private agencies that have public safety responsibilities to be able to effectively communicate in times of need so resources can be properly utilized and lives can be saved.

(b) Currently in this state, the ability of public safety agencies to communicate with each other is largely impossible because of all the different communications systems and frequencies being utilized by the various public safety agencies. This problem has been examined by the California Statewide Interoperability Executive Committee, the Public Safety Radio Strategic Planning Committee, and the Legislature.

(c) As we move to develop regional communications systems, the governance of the systems will be the key to success. There are some

basic elements that must be included for any regional system to work effectively. These elements include the following:

(1) Regional systems should be established taking into consideration topography, contiguous urban areas, and operational efficiency with respect to response agreements with local public safety agencies and, at minimum, should serve a county and be capable of interlinking with other systems simultaneously in real time.

(2) Regional systems must be compliant with current and applicable standards.

(3) Regional systems should be developed based on a shared governance model, the use of joint powers agreements is one workable model. The governance board responsibilities would include, but not be limited to, establishing advisory committees to develop recommendations on system operational issues, technical upgrades, and system financial planning.

(4) Regional systems should be developed using costing models that include subscriber fees that cover system operational costs, personnel needed to manage the network, technical upgrades or enhancements, and system replacement costs.

(5) Regional systems should be sized to include sufficient frequency capacity to serve all public interests including state, county, local government, and special districts.

(6) Regional systems must be developed in conjunction with ongoing regional and statewide planning efforts to ensure coordination of adequate frequency and protocols that will facilitate the linking of systems-to-systems as a means of achieving a statewide interoperable communications network.

SEC. 2. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities and which consists of representatives of the following state entities:

(1) The California Highway Patrol.

(2) The Department of Transportation.

(3) The Department of Corrections and Rehabilitation.

(4) The Department of Parks and Recreation.

(5) The Department of Fish and Game.

(6) The Department of Forestry and Fire Protection.
(7) The Department of Justice.
(8) The Department of Water Resources.
(9) The Office of Emergency Services.
(10) The Emergency Medical Services Authority.
(11) The Department of the Youth Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.

(c) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(d) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(e) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(f) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 2.5. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities and which consists of representatives of the following state entities:

(1) The Office of Emergency Services, who shall serve as chairperson.
(2) The California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.

(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Health Services.
(11) The Emergency Medical Services Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.
(14) The Military Department.
(15) Department of Finance.

(c) "First response agencies" means public agencies that, in the early states of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(e) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 3. Section 8592.4 of the Government Code is amended to read:

8592.4. (a) The committee shall determine which state public safety departments listed in subdivision (b) of Section 8592.1 need new or upgraded communication equipment and shall establish a program for equipment purchase. In establishing this program, the committee shall recommend the purchase of public safety radio subscriber equipment that will enable state agencies to commence conforming to industry and governmental standards for interoperability as set forth in Section 8592.5. As technology continues to evolve, the committee shall recommend the purchase of nonproprietary equipment or systems that have open architecture and backward compatibility, and that are in compliance with paragraphs (1) and (2) of subdivision (a) of Section 8592.5.

(b) The committee may recommend to any other federal, state, regional, or local entity with responsibility for developing, operating, or monitoring interoperability of the public safety spectrum, the purchase of public safety radio subscriber equipment that will enable first response agencies to commence conforming to industry and governmental standards for interoperability as set forth in paragraphs (1) and (2) of subdivision (a) of Section 8592.5. As technology continues to evolve, the committee may recommend the purchase of nonproprietary equipment or systems that have open architecture and backward compatibility, and that are in compliance with paragraphs (1) and (2) of subdivision (a) of Section 8592.5.

(c) This section does not mandate that a state or local governmental agency affected by this section is required to compromise its immediate mission or ability to function and carry out its existing responsibilities.

SEC. 4. Section 8592.5 of the Government Code is amended to read:

8592.5. (a) Except as provided in subdivision (c), a state department that purchases public safety radio communication equipment shall ensure that the equipment purchased complies with applicable provisions of the following:

(1) The common system standards for digital public safety radio communications commonly referred to as the "Project 25 Standard," as that standard may be amended, revised, or added to in the future jointly by the Associated Public–Safety Communications Officials, Inc., National Association of State Telecommunications Directors and agencies of the federal government, commonly referred to as "APCO/NASTD/FED."

(2) The operational and functional requirements delineated in the Statement of Requirements for Public Safety Wireless Communications and Interoperability developed by the SAFECOM Program under the United States Department of Homeland Security.

(b) Except as provided in subdivision (c), a local first response agency that purchases public safety radio communication equipment, in whole or in part, with state funds or federal funds administered by the state, shall ensure that the equipment purchased complies with paragraphs (1) and (2) of subdivision (a).

(c) Subdivision (a) or (b) shall not apply to either of the following:

(1) Purchases of equipment to operate with existing state or local communications systems where the latest applicable standard will not be compatible, as verified by the Telecommunications Division of the Department of General Services.

(2) Purchases of equipment for existing statewide low-band public safety communications systems.

(d) This section may not be construed to require an affected state or local governmental agency to compromise its immediate mission or ability to function and carry out its existing responsibilities.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 8592.1 of the Government Code proposed by both this bill and A.B. 2041. 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 8592.1 of the Government Code, and (3) this bill is enacted after A.B. 2041, in which case Section 2 of this bill shall not become operative.

CHAPTER 904

An act to amend Sections 14507.5 and 14581 of the Public Resources Code, relating to public resources.

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

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

SECTION 1. Section 14507.5 of the Public Resources Code is amended to read:

14507.5. (a) "Community Conservation Corps" means a nonprofit public benefit corporation formed or operating pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, or an agency operated by a city, county, or city and county, that is certified by the California Conservation Corps as meeting all of the following criteria:

(1) The corps is organized in the form of supervised work crews and selects young men and women for participation on the basis of motivation for hard work, personal development, and public service, without regard to their prior employment or educational background, and consistent with Section 14402. Participation shall be for a period of one year, and may be extended.

(2) The corps' program is based upon a highly disciplined work experience, includes an educational component, and is designed to develop corpsmembers' character and civic consciousness through rigorous work on public projects. The educational component of the corps' program includes enrollment in a vocational education program, public or charter high school, or postsecondary community college.

(3) The corps compensates corpsmembers at not less than the federal minimum wage, and provides corpsmembers assistance in obtaining

permanent employment following their participation in the corps program.

(4) The corps engages in recycling and litter abatement projects as well as projects that accomplish the conservationist and other purposes described in subdivisions (a) to (h), inclusive, of Section 14300, and that assist agencies of local government and other nonprofit community organizations in developing, rehabilitating, and restoring parklands, recreational facilities, and other community resources.

(5) The corps consists of an average annual enrollment of not less than 50 corpsmembers between 18 and 25 years of age. In determining the average annual enrollment of a community conservation corps for the purposes of subdivision (a) of Section 14581, the California Conservation Corps shall not include special corpsmembers, as described in Section 14303, who are employed by a community conservation corps.

(b) The California Conservation Corps shall evaluate a community conservation corps for the purpose of determining its eligibility for certification, pursuant to this section, after it has completed 12 months of continuous operation, and annually thereafter.

SEC. 2. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

(1) (A) On and after July 1, 2004, to June 30, 2005, inclusive, up to thirty million dollars ($30,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.

(B) For each fiscal year commencing July 1, 2005, twenty-six million five hundred thousand dollars ($26,500,000) shall be expended each fiscal year for the payment of handling fees required pursuant to Section 14585.

(2) Fifteen million dollars ($15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars ($15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to community conservation corps that are certified by the California Conservation Corps pursuant to Section 14507.5, and are designated by a city, county, or city and county to perform litter abatement, recycling, and related activities.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(C) Eligible activities for the use of these funds may include any of the following:

(i) Developing new projects to increase beverage container recycling volumes and consumer convenience.

(ii) Enhancing or assisting existing projects that increase beverage container recycling.

(iii) Increasing the awareness of beverage container recycling, litter prevention, and cleanup.

(iv) Performing beverage container litter abatement projects.

(4) (A) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may

withhold payment to a city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(6) (A) The department shall expend the amount necessary to pay the processing payment and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee is calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (f) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(iii) Funds equal to an amount sufficient to pay the total amount of the supplemental processing payments established pursuant to Section 14575.5.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments and supplemental processing payments, and reducing processing fees, pursuant to Sections 14575 and 14575.5 and paying processing fee rebates pursuant to Section 14575.2.

(7) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(8) Up to three million dollars ($3,000,000) shall be expended annually for the payment of quality glass incentive payments pursuant to Section 14549.1.

(9) Up to ten million dollars ($10,000,000) may be expended annually by the department, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code "3," "4," "5," "6," or "7," pursuant to Section 18015.

(10) Up to ten million dollars ($10,000,000) may be transferred on a one-time basis by the department to the Recycling Infrastructure Loan Guarantee Account, for expenditure pursuant to Section 14582.

(b) The fifteen million dollars ($15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container

manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

CHAPTER 905

An act to amend Sections 14087.51 and 14087.54 of the Welfare and Institutions Code, relating to county organized health systems.

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

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

SECTION 1. Section 14087.51 of the Welfare and Institutions Code is amended to read:

14087.51. (a) It is necessary that a special commission be established in San Mateo County and in any other county designated by the California Medical Assistance Commission in order to meet the problems of the delivery of publicly assisted medical care in the counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) The Board of Supervisors of San Mateo County and of the designated counties may, by ordinance, establish commissions to do any or all of the following:

(1) Negotiate the exclusive contracts specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter.

(2) Enter into contracts for the provision of health care services to subscribers in the Healthy Families Program.

(3) Enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(c) In addition to the authority specified in subdivision (b), the Board of Supervisors of San Mateo County may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(1) Persons who are eligible to receive medical benefits under this chapter in the county, including, but not limited to, persons who are eligible through federal waiver or a pilot project.

(2) Persons who are eligible to receive medical benefits under both Title 18 and Title 19 of the federal Social Security Act.

(3) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act.

(4) Persons who are eligible to receive medical benefits under publicly supported programs if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.

(5) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this paragraph.

(d) If the board of supervisors elects to enact an ordinance pursuant to this section, all rights, powers, duties, privileges, and immunities vested in a county by an article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(e) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, and any other matters as the board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. All commissioners shall be appointed by majority vote of the board of supervisors and shall serve at the pleasure thereof. The board of supervisors may appoint no more than two of its own members to serve on the commission.

(f) As an alternative to establishing a separate commission, the enabling ordinance may designate the board of supervisors itself as the commission authorized by this article.

(g) Nothing in this section shall be construed to supersede Section 14094.3 or 14093.06.

SEC. 2. Section 14087.54 of the Welfare and Institutions Code is amended to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) (1) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to

negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(2) The commission operating pursuant to this section may also enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs. The commission shall not use any payments or reserves from the Medi-Cal program for this purpose.

(3) In addition to the authority specified in paragraph (1), the board of supervisors may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(A) Persons who are eligible to receive medical benefits under both Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) and Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

(C) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this subparagraph.

(4) For purposes of providing services to persons described in subparagraph (A) or (B) of paragraph (3), if the commission seeks a contract with the federal Centers for Medicare and Medicaid Services to provide Medicare services as a Medicare Advantage program, the commission shall first obtain a license under the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(5) With respect to the provision of services for persons described in subparagraph (A) or (B) of paragraph (3), the commission shall conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services.

(6) Any material provided to a person described in subparagraph (A) or (B) of paragraph (3) who is dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare Program regarding

the enrollment or availability of enrollment in Medicare services established by the commission shall include notice of all of the following information in the following format:

(A) Medi-Cal eligibility will not be lost or otherwise affected if the person does not enroll in the plan for Medicare benefits.

(B) The person is not required to enroll in the Medicare plan to be eligible for Medicare benefits.

(C) The person may have other choices for Medicare coverage and for further assistance may contact the federal Centers for Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or www.Medicare.gov.

(D) The notice shall be in plain language, prominently displayed, and translated into any language other than English that the commission is required to use in communicating with Medi-Cal beneficiaries.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and shall file the statement required by Section 53051 of the Government Code. The commission shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, to sue or be sued, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Any obligations of a commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at the time that the commission's then

existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may, by ordinance, terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall prepare a plan to liquidate or otherwise dispose of the assets of the commission and to pay the liabilities of the commission to the extent of the commission's assets, and present the plan to the department within 30 days upon receipt of these findings.

(h) Upon termination of a commission by the board or boards, the county or counties shall manage any remaining assets of the commission until superseded by a department approved plan. Any liabilities of the commission shall not become obligations of the county or counties upon either the termination of the commission or the liquidation or disposition of the commission's remaining assets.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

(j) Nothing in this section shall be construed to supersede Section 14094.3 or 14093.06.

CHAPTER 906

An act to amend Sections 14087.51 and 14087.54 of the Welfare and Institutions Code, relating to health care.

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

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

SECTION 1. Section 14087.51 of the Welfare and Institutions Code is amended to read:

14087.51. (a) It is necessary that a special commission be established in San Mateo County and in any other county designated by the California Medical Assistance Commission in order to meet the problems of the

delivery of publicly assisted medical care in the counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) The Board of Supervisors of San Mateo County and of the designated counties may, by ordinance, establish commissions to do any or all of the following:

(1) Negotiate the exclusive contracts specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter.

(2) Enter into contracts for the provision of health care services to subscribers in the Healthy Families Program.

(3) Enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(c) In addition to the authority specified in subdivision (b), the Board of Supervisors of San Mateo County may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(1) Persons who are eligible to receive medical benefits under this chapter in the county, including, but not limited to, persons who are eligible through federal waiver or a pilot project.

(2) Persons who are eligible to receive medical benefits under both Title 18 and Title 19 of the federal Social Security Act.

(3) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act.

(4) Persons who are eligible to receive medical benefits under publicly supported programs if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.

(5) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this paragraph.

(d) Nothing in this section shall prohibit the commission established pursuant to this section from providing services pursuant to paragraph (5) of subdivision (c) in counties other than the commission's county if the commission is approved by the Department of Managed Health Care to provide services in those counties. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this subdivision.

(e) If the board of supervisors elects to enact an ordinance pursuant to this section, all rights, powers, duties, privileges, and immunities vested in a county by an article shall be vested in the county commission.

Any reference in this article to "county" shall mean a commission established pursuant to this section.

(f) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, and any other matters as the board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. All commissioners shall be appointed by majority vote of the board of supervisors and shall serve at the pleasure thereof. The board of supervisors may appoint no more than two of its own members to serve on the commission.

(g) As an alternative to establishing a separate commission, the enabling ordinance may designate the board of supervisors itself as the commission authorized by this article.

(h) Nothing in this section shall be construed to supersede Section 14093.06 or 14094.3.

SEC. 2. Section 14087.54 of the Welfare and Institutions Code is amended to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) (1) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(2) A commission operating pursuant to this section may also enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs. The commission shall not use any payments or reserves from the Medi-Cal program for this purpose.

(3) In addition to the authority specified in paragraph (1), the board of supervisors may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(A) Persons who are eligible to receive medical benefits under both Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) and Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

(C) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this subparagraph.

(4) Nothing in this section shall prohibit a commission established pursuant to this section from providing services pursuant to subparagraph (C) of paragraph (3) in counties other than the commission's county if the commission is approved by the Department of Managed Health Care to provide services in those counties. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this paragraph.

(5) For purposes of providing services to persons described in subparagraph (A) or (B) of paragraph (3), if the commission seeks a contract with the federal Centers for Medicare and Medicaid Services to provide Medicare services as a Medicare Advantage program, the commission shall first obtain a license under the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(6) With respect to the provision of services for persons described in subparagraph (A) or (B) of paragraph (3), the commission shall conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services.

(7) Any material, provided to a person described in subparagraph (A) or (B) of paragraph (3) who is dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare Program, regarding the enrollment or availability of enrollment in Medicare services established by the commission shall include notice of all of the following information in the following format:

(A) Medi-Cal eligibility will not be lost or otherwise affected if the person does not enroll in the plan for Medicare benefits.

(B) The person is not required to enroll in the Medicare plan to be eligible for Medicare benefits.

(C) The person may have other choices for Medicare coverage and for further assistance may contact the federal Centers for Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or www.Medicare.gov.

(D) The notice shall be in plain language, prominently displayed, and translated into any language other than English that the commission is required to use in communicating with Medi-Cal beneficiaries.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and shall file the statement required by Section 53051 of the Government Code. The commission shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, to sue or be sued, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Any obligations of a commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at the time that the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may by ordinance terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to

determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall prepare a plan to liquidate or otherwise dispose of the assets of the commission and to pay the liabilities of the commission to the extent of the commission's assets, and present the plan to the department within 30 days upon receipt of these findings.

(h) Upon termination of a commission by the board or boards, the county or counties shall manage any remaining assets of the commission until superseded by a department approved plan. Any liabilities of the commission shall not become obligations of the county or counties upon either the termination of the commission or the liquidation or disposition of the commission's remaining assets.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

(j) Nothing in this section shall be construed to supersede Section 14093.06 or 14094.3.

CHAPTER 907

An act to amend Sections 14509.4, 14524, 14536, 14560, 14574, 14575, 14581, and 14585 of, to amend, repeal, and add Section 14549.1 of, to add and repeal Section 14549.2 of, and to add Sections 14549.7 and 14571.5 to, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring an urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 14509.4 of the Public Resources Code is amended to read:

14509.4. "Convenience zone" means either of the following:

(a) The area within a one-half mile radius of a supermarket.

(b) The area designated by the department pursuant to Section 14571.5.

SEC. 2. Section 14524 of the Public Resources Code is amended to read:

14524. "Refund value" means the amount established for each type of beverage container pursuant to Section 14560 that is paid by the following:

(a) A certified recycling center to the consumer or dropoff or collection center for each beverage container redeemed by the consumer or dropoff or collection center. With respect to consumers returning containers to recycling centers, the refund value shall not be subject to tax under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

(b) A processor to a certified recycling center, dropoff or collection program, curbside program, or nonprofit dropoff program for each beverage container received from the certified recycling center, dropoff or collection program, curbside program, or nonprofit dropoff program.

(c) The department to a processor, for every beverage container received by the processor from a certified recycling center, curbside program, dropoff or collection program, or nonprofit dropoff program.

SEC. 3. Section 14536 of the Public Resources Code is amended to read:

14536. (a) Except as provided in subdivision (b), the director shall adopt, amend, or repeal all rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) (1) The director shall adopt regulations, and may adopt emergency regulations for the purposes of implementing Sections 14538, 14539, 14541, 14549.1, 14549.2, 14549.7, 14550, 14561, 14574, 14575, 14585, 14588.1, 14588.2, and 14591.

(2) Any emergency regulations, if adopted, shall be adopted 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 director.

SEC. 4. Section 14549.1 of the Public Resources Code is amended to read:

14549.1. In order to improve the quality and marketability of glass containers collected for recycling in the state by curbside recycling programs, the department may, consistent with Section 14581 and subject to the availability of funds, pay a quality glass incentive payment to either an operator of a curbside recycling program registered pursuant to Section 14551.5, or to any other entity certified pursuant to this division, that color sorts glass beverage containers for recycling. The total amount paid by the department pursuant to this section shall not exceed three million dollars ($3,000,000) per calendar year. The department shall make a quality glass incentive payment based on all of the following:

(a) The amount of the quality glass incentive payment shall be up to thirty dollars ($30) per ton, as determined by the department.

(b) The department shall make a quality glass incentive payment only for color-sorted glass beverage containers that are substantially free of contamination.

(c) The department shall make a quality glass incentive payment only for glass beverage containers that are either collected color sorted by curbside recycling programs, or collected commingled by curbside recycling programs and subsequently color sorted by the collector or any other entity certified pursuant to this division.

(d) Only one payment shall be made for each color-sorted glass beverage container collected.

(e) This section shall remain in effect until January 1, 2007, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2007, deletes or extends that date.

SEC. 5. Section 14549.1 is added to the Public Resources Code, to read:

14549.1. (a) In order to improve the quality and marketability of empty beverage containers collected for recycling in the state by curbside recycling programs or dropoff or collection programs, the department may, consistent with Section 14581 and subject to the availability of funds, pay a quality incentive payment for each material type, as specified in subdivision (c).

(b) The department may make a quality incentive payment pursuant to this section to either an operator of a curbside recycling program registered pursuant to Section 14551.5, or to any other entity certified pursuant to this division.

(c) Subject to subdivision (a), the department shall pay a quality incentive payment for each type of beverage container material in accordance with the following conditions:

(1) For quality incentive payments for empty glass beverage containers, all of the following shall apply:

(A) The department may make a quality incentive payment only for color-sorted glass beverage containers that are substantially free of contamination.

(B) The department may make a quality incentive payment for empty glass beverage containers that are either collected color sorted by curbside recycling programs or dropoff or collection programs, or that are collected mixed color by curbside recycling programs or dropoff or collection programs and are subsequently color sorted by the collector or any other entity certified pursuant to this division.

(C) The amount of the quality incentive payment for empty glass beverage containers shall be up to sixty dollars ($60) per ton, as determined by the department.

(2) For quality incentive payments for empty plastic beverage containers, both of the following shall apply:

(A) The department may make a quality incentive payment only for plastic beverage containers collected by curbside recycling programs or dropoff or collection programs, that are sorted by resin type, consistent with any quality specifications that the department may adopt.

(B) The amount of the quality plastic incentive payment shall be up to one hundred eighty dollars ($180) per ton, as determined by the department.

(3) For quality payments for empty aluminum beverage containers, all of the following shall apply:

(A) The department may make a quality incentive payment only for aluminum beverage containers that are free of any and all metallic and nonmetallic items, other than used aluminum containers.

(B) The department may make a quality incentive payment for empty aluminum beverage containers that are collected commingled by curbside recycling programs or dropoff or collection programs, and subsequently cleaned by the collector or any other entity certified pursuant to this division, of any and all metallic and nonmetallic items, other than used aluminum containers, consistent with any quality specifications that the department may adopt.

(C) The amount of the quality incentive payment for empty aluminum beverage containers shall be up to one hundred twenty-five dollars ($125) per ton, as determined by the department.

(d) An operator of a curbside recycling program or any other certified entity receiving a quality incentive payment shall make available for inspection and review any relevant record that the department determines is necessary to verify the accuracy of data upon which the quality incentive payment is based and the operator's or certified entity's compliance with any applicable regulation.

(e) The department may make only one quality incentive payment for each empty beverage container collected pursuant to this section.

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

SEC. 6. Section 14549.2 is added to the Public Resources Code, to read:

14549.2. (a) For purposes of this section, the following definitions shall apply:

(1) "Certified entity" means a recycling center, processor, or dropoff or collection program certified pursuant to this division.

(2) "Product manufacturer" means any person who manufactures a plastic product in this state.

(b) In order to develop California markets for empty plastic beverage containers collected for recycling in the state, the department may, consistent with Section 14581 and subject to the availability of funds, pay a market development payment to a certified entity or product manufacturer for empty plastic beverage containers collected and managed pursuant to this section.

(c) The department shall make a market development payment to a certified entity or product manufacturer in accordance with this section, only if the plastic beverage container is collected and either recycled or used in manufacturing, in the state, as follows:

(1) The department shall make a market development payment to a certified entity for empty plastic beverage containers that are collected for recycling in the state, that are subsequently washed and processed by a certified entity into a flake, pellet, or other form in the state, and made usable for the manufacture of a plastic product by a product manufacturer.

(2) The department shall make a market development payment to a product manufacturer for empty plastic beverage containers that are collected for recycling in the state, that are subsequently washed and processed into a flake, pellet or other form in the state, and used by that product manufacturer to manufacture a product in this state.

(3) The department shall determine the amount of the market development payment, which may be set at a different level for a certified entity and a product manufacturer, but shall not exceed one hundred fifty dollars ($150) per ton.

(4) The department may make a market development payment to both a certified entity and a product manufacturer for the same empty plastic beverage container.

(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.

SEC. 7. Section 14549.7 is added to the Public Resources Code, to read:

14549.7. (a) Commencing on January 1, 2007, and consistent with Section 14581, and to the extent that existing funds are available for this purpose, the department shall establish a recycling incentive payment for eligible recycling centers and dropoff or collection programs for empty beverage containers accepted or collected directly from consumers.

(b) To be eligible for recycling incentive payments, a recycling center, or dropoff or collection program shall meet both of the following requirements:

(1) (A) The recycling center or dropoff or collection program is certified, and "open for business," as specified in Section 14571, during the entire two-year period prior to the six-month period for which payments are made, during the entire six-month period for which payments are made, and at the time the payment is made. A six-month period shall commence either on January 1 or July 1.

(B) Notwithstanding subparagraph (A), a recycling center or dropoff or collection program that was operational prior to July 1, 2005, may receive a recycling incentive payment for eligible beverage containers collected on or after January 1, 2007.

(2) The number of beverage containers accepted or collected directly from consumers for recycling by the recycling center or dropoff or collection program during the six-month period for which payments are made exceeds by 6.5 percent, or more, for calendar year 2007, and by 5 percent, or more, for calendar years 2008 and 2009, the number of beverage containers accepted or collected directly from consumers for recycling by that entity during the same six-month period of the prior year.

(c) (1) Eligible beverage containers are those beverage containers that are accepted or collected directly from consumers for recycling by an eligible recycling center or dropoff or collection program during the six-month period for which payments are made that exceed the number of beverage containers accepted or collected directly from consumers by that entity in the same six-month period of the prior year. Eligible beverage containers determined pursuant to this paragraph shall be the "eligible volume" used to make payments pursuant to paragraph (4) of subdivision (d).

(2) Empty beverage containers purchased or collected by a recycling center or a dropoff or collection program from another certified or registered entity are not eligible for recycling incentive payments.

(d) The department shall make recycling incentive payments for each eligible beverage container accepted or collected directly from consumers by an eligible recycling center and dropoff or collection program and

properly reported to the department by a processor, based upon all of the following:

(1) The payment amount shall be calculated based upon the number of eligible beverage containers, as specified in subdivision (c), collected by the eligible recycling centers and dropoff or collection program, as specified in subdivision (b), during the six-month period for which the payments are to be made.

(2) The per-container rate shall be up to one cent ($0.01) for each eligible beverage container, pursuant to subdivision (c).

(3) The amount to be paid to each recycling center and dropoff or collection program shall be based upon the per-container rate, multiplied by each eligible program's total number of eligible beverage containers calculated pursuant to paragraph (1).

(e) The department shall disburse payments pursuant to this section within 6 months of the end of the six-month period for which the payments are calculated pursuant to paragraph (1) of subdivision (d), subject to the availability of funds.

(f) Only one payment shall be made for each eligible empty beverage container collected by an eligible recycling center or dropoff or collection program.

(g) The operator of an eligible recycling center and dropoff or collection program shall make available for inspection and review any relevant record that the department determines is necessary to verify compliance with this section.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.

SEC. 8. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) Except as provided in paragraph (3), a beverage distributor shall pay the department, for deposit into the fund, a redemption payment of four cents ($0.04) for a beverage container sold or offered for sale in this state by the distributor.

(2) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments paid pursuant to paragraph (1).

(3) On and after July 1, 2007, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents ($0.10), if the aggregate recycling rate reported pursuant to Section 14551 for all beverage containers subject to this

division is less than 75 percent for the 12-month reporting period from January 1, 2006, to December 31, 2006, or for any calendar year thereafter.

(b) Except as provided in subdivision (c), a beverage container sold or offered for sale in this state has a refund value of four cents ($0.04) if the beverage container has a capacity of less than 24 fluid ounces and eight cents ($0.08) if the beverage container has a capacity of 24 fluid ounces or more.

(c) Notwithstanding subdivision (b), the department may, on and after January 1, 2007, but not after July 1, 2007, increase the amount of the refund value specified in subdivision (b), by no more than one cent ($0.01), if the container has a capacity of less than 24 fluid ounces, and by two cents ($0.02) if the container has a capacity of 24 fluid ounces or more, if the department determines, as specified in subdivision (f) of Section 14581, there are sufficient moneys remaining in the fund to make these increased payments.

(d) (1) The department shall periodically review the fund to ensure that there are adequate funds in the fund to pay refund values and other disbursements required by this division.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, the department shall immediately notify the Legislature of the need for urgent legislative action.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the fund as necessary, according to the procedure set forth in Section 14581, to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

(e) This section does not apply to a refillable beverage container.

(f) The repeal and reenactment of this section by Chapter 815 of the Statutes of 1999 do not affect any obligations or penalties imposed by this section, as it read on January 1, 1999.

SEC. 9. Section 14571.5 is added to the Public Resources Code, to read:

14571.5. The department may, in a rural region, as identified pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 14571, upon petition by an interested person, do either of the following:

(a) (1) Increase a convenience zone to include the area within a three-mile radius of a supermarket, if the expanded convenience zone would then be served by a single existing certified recycling center or location.

(2) This subdivision applies only to a convenience zone that is otherwise not being served by a certified recycling center or location meeting the requirements of Section 14571 or is exempted by the department pursuant to Section 14571.8.

(b) (1) Designate a convenience zone pursuant to Section 14571.1 in an area where there is no supermarket, but with two or more dealers located within a one-mile radius of each other, and that meets all of the following criteria:

(A) The dealers in that area have combined gross annual sales of two million dollars ($2,000,000) or more, as certified by the petitioner in an affidavit filed with the petition.

(B) The convenience zone encompasses a three-mile radius, with the center of the zone established at the dealer, located closest to the existing recycling center specified in subparagraph (D).

(C) The convenience zone does not overlap any other existing convenience zone.

(D) The convenience zone is served by a single existing certified recycling center.

(2) The department shall identify the dealer locations only for the purpose of providing a reference point in the establishment of the convenience zone pursuant to this subdivision.

(3) If the existing recycling location in a convenience zone designated pursuant to this subdivision ceases operations, the convenience zone shall also cease to exist until a new recycling location is established, and the department is petitioned by an interested person to designate a convenience zone.

SEC. 10. Section 14574 of the Public Resources Code is amended to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the third month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment of redemption payments, if the distributor meets either of the following requirements:

(A) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the

distributor's projected redemption payment for a calendar year totals less than fifty thousand dollars ($50,000).

(B) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

SEC. 11. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraphs (2) and (3) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) The department shall use the average scrap values paid to recyclers between October 1, 2001, and September 30, 2002, for the 2003 calculation and the same 12-month period directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) To calculate the 2003 processing payments, the department shall use the recycling costs for certified recycling centers used to calculate the January 1, 2002, processing payments.

(3) For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non polyethylene terephthalate (non-PET) plastic containers by certified recycling centers to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents ($642.69) per ton for the January 1, 2002, calculation of the processing payment.

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) The processing fee in effect on January 1, 2004, shall be equal to the following amounts:

(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment if the recycling rate of that container type was equal to, or greater than, 60 percent for the 1999 calendar year.

(B) For a container type that was not subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 2001 calendar year.

(C) For a container type that was not subject to this division on January 1, 1999, 15 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 45 percent, but less than 60 percent for the 2001 calendar year.

(D) For a container type that was not subject to this division on January 1, 1999, 20 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 30 percent, but less than 45 percent, for the 2001 calendar year.

(2) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

(C) Twelve percent of the processing payment for a container type with a recycling rate equal to or greater than 60 percent, but less than 65 percent.

(D) Thirteen percent of the processing payment for a container type with a recycling rate equal to or greater than 55 percent, but less than 60 percent.

(E) Fourteen percent of the processing payment for a container type with a recycling rate equal to or greater than 50 percent, but less than 55 percent.

(F) Fifteen percent of the processing payment for a container type with a recycling rate equal to or greater than 45 percent, but less than 50 percent.

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

(H) Twenty percent of the processing payment for a container type with a recycling rate equal to or greater than 30 percent, but less than 40 percent.

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(3) Notwithstanding this section, for calendar year 2007 only, the department shall reduce to zero the processing fee paid for any container type with a recycling rate equal to, or greater than 40 percent.

(4) The department shall calculate the recycling rate for purposes of paragraphs (2) and (3) based on the 12-month period ending on June 30 that directly precedes the date of the January 1 processing fee determination.

(g) Not more than once every three months, the department may make an adjustment in the amount of the processing payment established pursuant to this section notwithstanding any change in the amount of the processing fee established pursuant to this section, for any beverage container, if the department makes the following determinations:

(1) The statewide scrap value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent

more or 5 percent less than the average scrap value used as the basis for the processing payment currently in effect.

(2) Funds are available in the processing fee account for the material type.

(3) Adjusting the processing payment is necessary to further the objectives of this division.

(h) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail, return receipt requested, to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

(i) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than ten thousand dollars ($10,000).

(ii) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than fifteen thousand dollars ($15,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year for which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual costs and financial return incurred by the recycling center, as specified in subdivision (b).

(i) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivisions (e) and (f), by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (f).

(2) The department shall determine the processing fee reduction by dividing two million dollars ($2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred

to a distributor during the previous calendar year, based upon the latest available data.

SEC. 12. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

(1) (A) On and after July 1, 2005, to June 30, 2006, inclusive, up to thirty-one million dollars ($31,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.

(B) On and after July 1, 2006, to June 30, 2007, inclusive, up to thirty-three million dollars ($33,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.

(C) On and after July 1, 2007, to June 30, 2008, inclusive, up to thirty-five million dollars ($35,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.

(D) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars ($15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars ($15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(C) The community conservation corps issued grants pursuant to clause (ii) of subparagraph (A) shall also meet the criteria of Section 14507.6, if Assembly Bill 3038 of the Regular Session of the Legislature is enacted and adds Section 14507.6 to the Public Resources Code.

(4) (A) On or after July 1, 2007, until June 30, 2008, for only that fiscal year, up to twenty million dollars ($20,000,000) may be expended in the form of competitive grants issued to community conservation corps that are designated by a city, or county and that meet all of the following criteria:

(i) Are certified by the California Conservation Corps as having operated for a minimum of two years.

(ii) Meet all other requirements under Section 14507.5.

(B) The department shall prepare and adopt criteria and procedures for evaluating grant applications on a competitive basis. Eligible activities for the use of these funds shall include developing new projects, or enhancing or assisting existing projects, to increase beverage container recycling and increasing the quality of recycled material at the following locations:

(1) Multi-family dwellings.

(2) Schools.

(3) Commercial, state, and local government buildings.

(4) Bars, restaurants, hotels, and lodging establishments, and entertainment venues.

(5) Parks and beaches.

(C) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(D) Any grants provided pursuant to this paragraph shall support one-time capital improvement projects and shall not be used to support ongoing staff activities.

(E) Any grant funds appropriated pursuant to this paragraph that have not been awarded to a grantee prior to the end of the 2007–08 fiscal year shall revert to the fund.

(5) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public

education-promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(6) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(7) (A) The department shall expend the amount necessary to pay the processing payment and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraphs (2) and (3) of

subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (f) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(iii) Funds equal to an amount sufficient to pay the total amount of the supplemental processing payments established pursuant to Section 14575.5.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments and supplemental processing payments, and reducing processing fees, pursuant to Sections 14575 and 14575.5 and paying processing fee rebates pursuant to Section 14575.2.

(8) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(9) Until January 1, 2008, the department may expend up to five million dollars ($5,000,000) for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers that meets both of the following requirements:

(A) The public education and information campaign is multimedia and includes print, radio, and television.

(B) The public education and information campaign is multilingual.

(10) (A) Until January 1, 2007, up to three million dollars ($3,000,000) shall be expended annually for the payment of quality glass incentive payments pursuant to Section 14549.1.

(B) On and after January 1, 2007, up to fifteen million dollars ($15,000,000) may be expended annually by the department for quality incentive payments for empty beverage containers pursuant to Section 14549.1.

(11) Up to twenty million dollars ($20,000,000) may be expended annually by the department, until January 1, 2012, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Research and development to provide high-quality materials that are substantially free of contamination.

(E) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code "3," "4," "5," "6," or "7," pursuant to Section 18015.

(12) Up to ten million dollars ($10,000,000) may be transferred on a one-time basis by the department to the Recycling Infrastructure Loan Guarantee Account, for expenditure pursuant to Section 14582.

(13) Up to ten million dollars ($10,000,000) may be expended annually by the department for the payment of recycling incentive payments pursuant to Section 14549.7 until payments for eligible beverage containers redeemed or collected for recycling on or before December 31, 2009, have been paid.

(14) Up to five million dollars ($5,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2012.

(15) Up to five million dollars ($5,000,000) may be expended, by the department, on a one-time basis beginning on January 1, 2007, in coordination with the Department of Parks and Recreation for the purposes of installing source separated beverage container recycling receptacles at each of the state parks, starting with those parks that have the highest day use.

(16) Up to five million dollars ($5,000,000) may be expended, from January 1, 2007, to January 1, 2008, to provide grants to local governments or nonprofit agencies to place multifamily housing source separated beverage container recycling receptacles in low-income communities.

(b) The fifteen million dollars ($15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the

appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

(f) After setting aside money for the expenditures required pursuant to subdivisions (a) and (b) and Section 14580, the department may, on and after January 1, 2007, but not after July 1, 2007, expend remaining moneys in the fund to pay a refund value in an amount greater than the refund value established pursuant to subdivision (b) of Section 14560.

SEC. 13. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) (A) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler shall redeem not less than 60,000 beverage containers, during the calendar month in which the handling fee is claimed or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months.

(B) Subparagraph (A) shall not apply on and after July 1, 2008.

(3) (A) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of

determining the eligibility percentage, any handling fee calculations, and payments.

(B) Subparagraph (A) shall not apply on and after July 1, 2008.

(4) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(5) (A) From the effective date of the statute enacted by Assembly Bill 3056 of the 2005–06 Regular Session to June 30, 2008, inclusive, the department shall pay a handling fee of 1.8 cents ($0.018) per eligible beverage container, as determined pursuant to paragraph (4).

(B) On and after July 1, 2008, the department shall pay a handling fee per eligible container in the amount determined pursuant to subdivision (f).

(6) (A) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars ($2,300) per month.

(B) Subparagraph (A) shall not apply on and after July 1, 2008.

(7) If the eligible volume in any given month would result in handling fee payments that exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(8) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.

(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.

(C) Notwithstanding subparagraph (A), any operator who fails to provide notification to the department pursuant to subparagraph (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the amount authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler located anywhere inside a convenience zone, if that convenience zone is not served by another certified recycling center and the rural region recycler does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.

(f) (1) On or before January 1, 2008, and every two years thereafter, the department shall conduct a survey pursuant to this subdivision of a statistically significant sample of certified recycling centers that receive handling fee payments to determine the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers. The department shall conduct these cost surveys in conjunction with the cost surveys performed by the department pursuant to subdivision (b) of Section 14575 to determine processing payments and processing fees. The department shall include, in determining the actual costs, only those allowable costs contained in the regulations adopted pursuant to this division that are used by the department to conduct cost surveys pursuant to subdivision (b) of Section 14575.

(2) Using the information obtained pursuant to paragraph (1), the department shall then determine the statewide weighted average cost incurred for the redemption of empty beverage containers, per empty beverage container, at recycling centers that receive handling fees.

(3) On and after July 1, 2008, the department shall determine the amount of the handling fee to be paid for each empty beverage container by subtracting the amount of the statewide weighted average cost per container to redeem empty beverage containers by recycling centers that do not receive handling fees from the amount of the statewide weighted average cost per container determined pursuant to paragraph (2).

(4) The department shall adjust the statewide average cost determined pursuant to paragraph (2) for each beverage container annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(5) The cost information collected pursuant to this section at recycling centers that receive handling fees shall not be used in the calculation of the processing payments determined pursuant to Section 14575.

SEC. 14. Notwithstanding Item No. 3480-011-0133 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002) and Item No. 3480-011-0133 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003), or Section 14580 of the Public Resources Code, any transfer made from the Beverage Container Recycling Fund to the General Fund pursuant to those items that is required to be fully repaid by June 30, 2009, shall instead be fully repaid on or before June 30, 2013.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order to encourage the recycling of beverage containers, thereby protecting public health and safety, and the environment, it is necessary that this act take effect immediately.

CHAPTER 908

An act to amend Sections 1725, 1750.2, and 1752.5 of, and to add Section 1750.4 to, the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

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

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

SECTION 1. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental auxiliaries shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars ($20).

(b) (1) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars ($50) for the written examination and shall not exceed sixty dollars ($60) for the practical examination.

(2) On and after January 1, 2008, the following fees are established for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants:

(A) The fee for application and for the issuance of a license shall not exceed fifty dollars ($50).

(B) The fee for the practical examination shall not exceed ninety-five dollars ($95), nor shall it exceed the actual cost of the examination.

(C) The fee for a written examination shall not exceed eighty dollars ($80), nor shall it exceed the actual cost of the examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed two hundred fifty dollars ($250).

(d) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars ($220).

(e) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(f) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars ($250).

(g) The board shall establish the fee at an amount not to exceed the actual cost for licensure as a registered dental hygienist in alternative practice.

(h) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars ($60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars ($80).

(i) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(j) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25).

(k) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(*l*) The fee for each review of radiation safety courses or specialty registration courses that are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(m) No fees or charges other than those listed in subdivisions (a) through (k) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course evaluations pursuant to this chapter.

(n) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(o) Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.

SEC. 1.5 Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental auxiliaries shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars ($20).

(b) (1) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars ($50) for the written examination and shall not exceed sixty dollars ($60) for the practical examination.

(2) On and after January 1, 2008, the following fees are established for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants:

(A) The fee for application and for the issuance of a license shall not exceed fifty dollars ($50).

(B) The fee for the practical examination shall not exceed ninety-five dollars ($95), nor shall it exceed the actual cost of the examination.

(C) The fee for a written examination shall not exceed eighty dollars ($80), nor shall it exceed the actual cost of the examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed two hundred fifty dollars ($250).

(d) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars ($60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars ($80).

(e) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(f) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25).

(g) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(h) The fee for each review of radiation safety courses or specialty registration courses that are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(i) No fees or charges other than those listed in subdivisions (a) through (k) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course evaluations pursuant to this chapter.

(j) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(k) Fees collected pursuant to this section shall be deposited in the State Dental Assistant Fund.

SEC. 2. Section 1750.2 of the Business and Professions Code is amended to read:

1750.2. (a) On and after January 1, 2008, the board shall license as a "registered orthodontic assistant," "registered surgery assistant," or "registered restorative assistant" any person who does either of the following:

(1) Submits written evidence of satisfactory completion of a course or courses approved by the board pursuant to subdivision (b) that qualifies him or her in one of these specialty areas of practice and obtains a passing score on both of the following:

(A) A written examination developed, for the specialty category for which the person is seeking licensure, by the Dental Assisting National Board (DANB) and approved by the board.

(B) A practical examination for the specialty category for which the person is seeking licensure that is approved by the board.

(2) Completes a work experience pathway to licensure that meets the requirements set forth in Section 1750.4. This section permits the work experience pathway to licensure only for those assistants described in this subdivision and does not apply to dentists or dental hygienists.

(b) The board shall adopt regulations for the approval of specialty registration courses in the specialty areas specified in this section. The board shall also adopt regulations for the approval and recognition of required prerequisite courses and core courses that teach basic dental science, when these courses are taught at secondary institutions, regional occupational centers, or through regional occupational programs.

The regulations shall define the minimum education and training requirements necessary to achieve proficiency in the procedures authorized for each specialty registration, taking into account the combinations of classroom and practical instruction, clinical training, and supervised work experience that are most likely to provide the greatest number of opportunities for improving dental assisting skills efficiently.

(c) The board may approve specialty registration courses referred to in this section prior to January 1, 2008, and the board shall recognize

the completion of these approved courses prior to January 1, 2008, but no specialty registrations shall be issued prior to January 1, 2008.

(d) The board may approve a course for the specialty registration listed in subdivision (b) that does not include instruction in coronal polishing.

(e) The board may approve a course that only includes instruction in coronal polishing as specified in paragraph (8) of subdivision (b) of Section 1750.3.

(f) A person who holds a specialty registration pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

SEC. 3. Section 1750.4 is added to the Business and Professions Code, to read:

1750.4. (a) A dentist who holds a valid, active, and current license to practice dentistry under this chapter may train and educate his or her employees, or employees of the dental office, primary care clinic, or hospital where the dentist is practicing and directly supervises the employees, without charge or cost to the employees, in all of the allowable duties for the purpose of licensure in one of the specialty licensure categories set forth in Section 1750.2. A dentist may not begin the work experience training and education of an employee until his or her application for that particular employee is approved by the Committee on Dental Auxiliaries.

(1) In order to train or educate pursuant to this subdivision, the dentist shall be subject to the following terms and conditions, which are applicable prior to commencing training for each employee:

(A) On a completed and signed application form approved by the committee, the dentist shall provide the specialty dental assistant category in which the dentist will be training the employee and the name of the employee. When the committee provides a requested application to an employer, the committee shall also provide a copy of the regulations governing the education and training of the specialty assistants. Nothing in this section shall preclude the committee from making the application and the regulations available electronically.

(B) The education and training the dentist provides shall be in compliance with the regulations adopted by the board pursuant to subdivision (b) of Section 1750.2. Employees trained pursuant to this section shall be considered bona fide students, as described in Section 1626.5, as added by Section 6 of Chapter 655 of the Statutes of 1999. The dentist shall not allow the employee to begin the clinical training on patients until the employee has completed the didactic and preclinical training, that includes nonpatient training on typodonts and other

laboratory models and as prescribed in regulations, and a minimum of 120 days as a dental assistant in California or another state, which may include graduation from a regional occupational center or regional occupation program pursuant to paragraph (1) of subdivision (b).

(C) The dentist shall pay a fee to the committee to cover administrative costs not to exceed two hundred fifty dollars ($250).

(D) Prior to beginning employee training, the dentist shall complete a teaching methodology course approved by the board that is six hours in length and covers educational objectives, content, instructional methods, and evaluation procedures. The dentist shall be exempt from this requirement if he or she holds any one of the following degrees, credentials, or positions:

(i) A postgraduate degree in education.

(ii) A Ryan Designated Subjects Vocational Education Teaching Credential.

(iii) A Standard Designated Subjects Teaching Credential.

(iv) A Community College Teaching Credential.

(v) Is a faculty member of a dental school approved by the Commission on Dental Accreditation.

The dentist shall provide to the board proof of one of these designations or shall submit a certificate of course completion in teaching methodology.

(2) All duties performed by an employee pursuant to this section shall be done in the dentist's presence. The dentist shall ensure that any patient treated by a bona fide student is verbally informed of the student's status.

(3) The work experience pathway for the employee shall not exceed a term of 18 months, starting on the date that the board receives the form, curriculum plan, and fee required pursuant to subparagraphs (A), (B), and (C) of paragraph (1).

(4) Upon successful completion of the work experience pathway period, the dentist shall certify in writing that the employee has successfully completed the educational program covering all procedures authorized for the specialty category for which the employee is seeking licensure.

(5) With respect to this subdivision, the committee:

(A) Shall approve the application form described in subparagraph (A) of paragraph (1). The application form shall not be required to comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) Shall have a maximum of 60 days from the date a completed application is received in which to approve or deny an application under this subdivision. Nothing in this section shall prohibit a dentist from appealing the denial of an application to the executive officer of the

committee or, in the absence of the executive officer, to the assistant executive officer of the committee.

(C) May inspect the dentist's facilities and practice at any time to ensure compliance with regulations adopted by the board pursuant to Section 1750.2.

(b) As a condition for licensure for specialty registration under Section 1750.2, an applicant who completes a work experience pathway pursuant to this section shall do the following:

(1) Certify to the board that he or she has a minimum of 1600 hours of prior work experience as a dental assistant. The 1600 hours of required work experience may be obtained by working for multiple employers, if the applicant provides written evidence of work experience from each dentist employer. The employee may begin the work experience pathway before he or she completes 1600 hours of work experience, but may not apply for licensure until that work experience is completed. The board shall give credit toward the 1600 hours of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that is not approved by the board. The credit shall equal the hours spent in classroom training and internship on an hour-for-hour basis not to exceed 400 hours.

(2) Certify to the board that he or she has completed the educational program covering all procedures authorized for the specialty category for which the applicant is seeking licensure.

(3) Obtain a passing score on a written examination developed, for the specialty category for which the employee is seeking licensure, by the Dental Assisting National Board (DANB) and approved by the board.

(4) Obtain a passing score on a practical examination for the specialty category for which the employee is seeking licensure that is approved by the board.

SEC. 4. Section 1752.5 of the Business and Professions Code is amended to read:

1752.5. On and after September 1, 2007, a person may apply for and be issued a license as a registered dental assistant upon providing evidence to the board of one of the following:

(a) Successful completion of an educational program in registered dental assisting approved by the board on or after January 1, 2006, to teach all of the functions specified in Section 1750.3.

(b) Successful completion of:

(1) An educational program in registered dental assisting approved by the board to teach the duties that registered dental assistants were allowed to perform pursuant to board regulations prior to January 1, 2008.

(2) A board-approved course or courses in the following duties:

(A) Selecting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic brackets.

(B) Monitoring of patients during the preoperative, intraoperative, and postoperative phases.

(i) For purposes of this subparagraph, patient monitoring includes the following:

(I) Selection and validation of monitoring sensors, selecting menus and default settings and analysis for electrocardiogram, pulse oximeter and capnograph, continuous blood pressure, pulse, and respiration rates.

(II) Interpretation of data from noninvasive patient monitors including readings from continuous blood pressure and information from the monitor display for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentration, respiratory cycle data, continuous noninvasive blood pressure data, and pulse arterial oxygen saturation measurements, for the purpose of evaluating the condition of the patient during preoperative, intraoperative, and postoperative treatment.

(ii) For purposes of this subparagraph, patient monitoring does not include the following:

(I) Reading and transmitting information from the monitor display during the intraoperative phase of surgery for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentrations, respiratory cycle data, continuous noninvasive blood pressure data, or pulse arterial oxygen saturation measurements, for the purpose of interpretation and evaluation by a licensed dentist who shall be at chairside during this procedure.

(II) Placing of sensors.

(C) Adding drugs, medications, and fluids to intravenous lines using a syringe.

(D) Applying pit and fissure sealants.

(c) Successful completion of:

(1) Twelve months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks.

(2) The three board-approved specialty registration courses, as defined in Section 1750.2, for registration as a registered orthodontic assistant, registered surgery assistant, and registered restorative assistant. Any specialty license issued pursuant to paragraph (2) of subdivision (a) of

Section 1750.2 shall be deemed to have met the requirements of this subdivision for that specialty.

(3) A board-approved radiation safety program.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 1725 of the Business and Professions Code proposed by both this bill and SB 1472. 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 1725 of the Business and Professions Code, and (3) this bill is enacted after SB 1472, in which case Section 1 of this bill shall not become operative.

CHAPTER 909

An act to add Section 1638.1 to the Business and Professions Code, relating to oral and maxillofacial surgery, and making an appropriation therefor.

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

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

SECTION 1. Section 1638.1 is added to the Business and Professions Code, to read:

1638.1. (a) (1) A person licensed pursuant to Section 1634 who wishes to perform elective facial cosmetic surgery shall first apply for and receive a permit to perform elective facial cosmetic surgery from the board.

(2) A permit issued pursuant to this section shall be valid for a period of two years and must be renewed by the permitholder at the time his or her license is renewed. Every six years, prior to renewal of the permitholder's license and permit, the permitholder shall submit evidence acceptable to the credentialing committee that he or she has maintained continued competence to perform the procedures authorized by the permit. The credentialing committee may limit a permit consistent with paragraph (1) of subdivision (e) if it is not satisfied that the permitholder has established continued competence.

(b) The board may adopt regulations for the issuance of the permit that it deems necessary to protect the health, safety, and welfare of the public.

(c) A licensee may obtain a permit to perform elective facial cosmetic surgery by furnishing all of the following information on an application form approved by the board:

(1) Proof of successful completion of an oral and maxillofacial surgery residency program accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) Proof that the applicant has satisfied the criteria specified in either subparagraph (A) or (B):

(A) (i) Is certified, or is a candidate for certification, by the American Board of Oral and Maxillofacial Surgery.

(ii) Submits to the board a letter from the program director of the accredited residency program, or from the director of a postresidency fellowship program accredited by the Commission on Dental Accreditation of the American Dental Association, stating that the licensee has the education, training, and competence necessary to perform the surgical procedures that the licensee has notified the board he or she intends to perform.

(iii) Submits documentation to the board of at least 10 operative reports from residency training or proctored procedures that are representative of procedures that the licensee intends to perform from both of the following categories:

(I) Cosmetic contouring of the osteocartilaginous facial structure, which may include, but is not limited to, rhinoplasty and otoplasty.

(II) Cosmetic soft tissue contouring or rejuvenation, which may include, but is not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation.

(iv) Submits documentation to the board showing the surgical privileges the applicant possesses at any licensed general acute care hospital and any licensed outpatient surgical facility in this state.

(B) (i) Has been granted privileges by the medical staff at a licensed general acute care hospital to perform the surgical procedures set forth in paragraph (A) at that hospital.

(ii) Submits to the board the documentation described in clause (iii) of subparagraph (A).

(3) Proof that the applicant is on active status on the staff of a general acute care hospital and maintains the necessary privileges based on the bylaws of the hospital to maintain that status.

(d) The application shall be accompanied by an application fee of five hundred dollars ($500) for an initial permit. The fee to renew a permit shall be two hundred dollars ($200).

(e) (1) The board shall appoint a credentialing committee to review the qualifications of each applicant for a permit. Upon completion of the review of an applicant, the committee shall make a recommendation

to the board on whether to issue or not issue a permit to the applicant. The permit may be unqualified, entitling the permitholder to perform any facial cosmetic surgical procedure authorized by this section, or it may contain limitations if the credentialing committee is not satisfied that the applicant has the training or competence to perform certain classes of procedures, or if the applicant has not requested to be permitted for all procedures authorized by this section.

(2) The credentialing committee shall be comprised of five members, as follows:

(A) A physician and surgeon with a specialty in plastic and reconstructive surgery who maintains active status on the staff of a licensed general acute care hospital in this state.

(B) A physician and surgeon with a specialty in otolaryngology who maintains active status on the staff of a licensed general acute care hospital in this state.

(C) Three oral and maxillofacial surgeons licensed by the board who are board certified by the American Board of Oral and Maxillofacial Surgeons, and who maintain active status on the staff of a licensed general acute care hospital in this state, at least one of whom shall be licensed as a physician and surgeon in this state. Two years after the effective date of this section, any oral and maxillofacial surgeon appointed to the committee who is not licensed as a physician and surgeon shall hold a permit pursuant to this section.

(3) The board shall solicit from the following organizations input and recommendations regarding members to be appointed to the credentialing committee:

(A) The Medical Board of California.

(B) The California Dental Association.

(C) The California Association of Oral and Maxillofacial Surgeons.

(D) The California Medical Association.

(E) The California Society of Plastic Surgeons.

(F) Any other source that the board deems appropriate.

(4) The credentialing committee shall meet at a time and place directed by the board to evaluate applicants for permits. A quorum of three members shall be required for the committee to consider applicants and make recommendations to the board.

(f) A licensee may not perform any elective, facial cosmetic surgical procedure except at a general acute care hospital, a licensed outpatient surgical facility, or an outpatient surgical facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Association for Ambulatory Health Care (AAAHC), the Medicare program, or an accreditation agency approved by the Medical

Board of California pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(g) For purposes of this section, the following terms shall have the following meanings:

(1) "Elective cosmetic surgery" means any procedure defined as cosmetic surgery in subdivision (d) of Section 1367.63 of the Health and Safety Code, and excludes any procedure that constitutes reconstructive surgery, as defined in subdivision (c) of Section 1367.63 of the Health and Safety Code.

(2) "Facial" means those regions of the human body described in Section 1625 and in any regulations adopted pursuant to that section by the board.

(h) A holder of a permit issued pursuant to this section shall not perform elective facial cosmetic surgical procedures unless he or she has malpractice insurance or other financial security protection that would satisfy the requirements of Section 2216.2 and any regulations adopted thereunder.

(i) A holder of a permit shall comply with the requirements of subparagraph (D) of paragraph (2) of subdivision (a) of Section 1248.15 of the Health and Safety Code, and the reporting requirements specified in Section 2240, with respect to any surgical procedure authorized by this section, in the same manner as a physician and surgeon.

(j) Any violation of this section constitutes unprofessional conduct and is grounds for the revocation or suspension of the person's permit, license, or both, or the person may be reprimanded or placed on probation. Proceedings initiated by the board 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 board shall have all the powers granted therein.

(k) On or before January 1, 2009, and every four years thereafter, the board shall report to the Joint Committee on Boards, Commissions and Consumer Protection on all of the following:

(1) The number of persons licensed pursuant to Section 1634 who apply to receive a permit to perform elective facial cosmetic surgery from the board pursuant to subdivision (a).

(2) The recommendations of the credentialing committee to the board.

(3) The board's action on recommendations received by the credentialing committee.

(4) The number of persons receiving a permit from the board to perform elective facial cosmetic surgery.

(5) The number of complaints filed by or on behalf of patients who have received elective facial cosmetic surgery by persons who have

received a permit from the board to perform elective facial cosmetic surgery.

(6) Action taken by the board resulting from complaints filed by or on behalf of patients who have received elective facial cosmetic surgery by persons who have received a permit from the board to perform elective facial cosmetic surgery.

CHAPTER 910

An act to amend Sections 23387, 25509, and 25511 of, and to add Section 23001.5 to, the Business and Professions Code, relating to alcoholic beverages.

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

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

SECTION 1. Section 23001.5 is added to the Business and Professions Code, to read:

23001.5. If any provision of this division or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this division that can be given effect without the invalid portion or application, and to this end the provisions of this division are severable. It is the intent of the Legislature that this division would have been adopted regardless if such invalid provision had not been included or any invalid application had not been made.

SEC. 2. Section 23387 of the Business and Professions Code is amended to read:

23387. In addition to the other privileges exercised under a wholesaler's or rectifier's license, a wholesaler or rectifier may sell the alcoholic beverages mentioned in his or her license to persons who take delivery of the alcoholic beverages within this state for delivery or use outside of the state within 90 days from the date of the sale in accordance with rules and regulations prescribed by the department.

SEC. 3. Section 25509 of the Business and Professions Code is amended to read:

25509. (a) A distilled spirits manufacturer, a brandy manufacturer, a beer manufacturer, a winegrower, a wine blender, a distilled spirits rectifier, a wine rectifier, a distilled spirits wholesaler or a beer and wine wholesaler who sold and delivered beer, wine, or distilled spirits to a

retailer and who did not receive payment for such beer, wine, or distilled spirits by the expiration of the 42nd day from date of delivery shall charge the retailer 1 percent of the unpaid balance for such beer, wine, and distilled spirits on the 43rd day from date of delivery and an additional 1 percent for each 30 days thereafter.

(b) A distilled spirits manufacturer, a brandy manufacturer, a beer manufacturer, a winegrower, a wine blender, distilled spirits rectifier, a wine rectifier, distilled spirits wholesaler or beer and wine wholesaler who sold and delivered beer, wine, or distilled spirits to a retailer and who did not receive payment in full by the expiration of the 30th day from date of delivery or who has not received payment of the 1 percent charge at the expiration of the 30th day from the day the charge became due shall thereafter sell beer, wine, or distilled spirits to said retailer either for cash or by receiving payment in advance of delivery until such time as all payments are received for the beer, wine, or distilled spirits sold and delivered to the said retailer more than 30 days previously.

(c) The 42-day period and the 30-day period provided for in this section shall commence with the day immediately following the date of invoice and shall include all successive days including Sundays and holidays to and including the 42nd or 30th day as the case may be. When the 42nd day from date of invoice or the expiration of each additional 30-day period falls on Saturday, Sunday, or legal holiday, the next business day shall be deemed to be the expiration day.

(d) All moneys received from a retailer in payment for any beer, wine, or distilled spirits sold and delivered to him or her shall be first applied to the payment of the oldest balance on beer, wine, or distilled spirits. All checks received for such payments shall be deposited for collection not later than the second business day following receipt of said check. A promissory note, postdated check or check dishonored on presentation shall not be deemed payment.

(e) In enacting the act that amends this section by adding this subdivision, the Legislature finds that it is necessary and proper to remove the retailer from financial or business obligations to suppliers or wholesalers by the extension of credit beyond the terms contained in this section. The Legislature further finds that the exception established by this section to the general prohibition against tied interests shall be limited to its express terms so as not to undermine the general prohibition, and intends that this section shall be construed accordingly.

SEC. 4. Section 25511 of the Business and Professions Code is amended to read:

25511. Notwithstanding any other provision of this division, a beer manufacturer or beer wholesaler, or any officer, director, or agent of any of those persons may furnish, give, rent, lend, or sell, directly or

indirectly, any equipment, fixtures, or supplies, other than alcoholic beverages, to a retailer whose equipment, fixtures, or supplies were lost or damaged as a result of a natural disaster and whose premises are located in an area proclaimed to be in a state of disaster by the Governor.

This section does not apply to transactions that occur three months or more after the Governor proclaims an area to be in a state of disaster.

Nothing in this section is intended to affect or otherwise limit Section 23104.1, 23104.2, or 23104.3.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENT

2005 – 06

REGULAR SESSION

2006 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 15—Relative to the California Law Revision Commission.

[Filed with Secretary of State January 31, 2006.]

WHEREAS, The California Law Revision Commission is authorized to study topics set forth in the calendar contained in its report to the Governor and the Legislature that have been or are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature or by statute; and

WHEREAS, The commission, in its annual report covering its activities for 2004 and 2005, recommends continued study of 21 topics, all of which the Legislature has previously authorized or directed the commission to study, and further recommends addition of one new topic to its calendar; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters.

(2) Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code, and related matters.

(3) Whether the law should be revised that relates to real and personal property including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, powers of termination, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant on assignment, subletting, termination, or abandonment of a lease, and related matters.

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code.

(5) Whether the law relating to offers of compromise should be revised.

(6) Whether the law relating to discovery in civil cases should be revised.

(7) Whether the acts governing special assessments for public improvement should be simplified and unified.

(8) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised.

(9) Whether the Evidence Code should be revised.

(10) Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised.

(11) Whether there should be changes to administrative law.

(12) Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised.

(13) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California.

(14) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.

(15) Whether the law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters.

(16) Whether the law governing common interest housing developments should be revised to clarify the law, eliminate unnecessary or obsolete provisions, consolidate existing statutes in one place in the codes, establish a clear, consistent, and unified policy with regard to formation and management of these developments and transaction of real property interests located within them, and to determine to what extent they should be subject to regulation.

(17) Whether the statutes of limitation for legal malpractice actions should be revised to recognize equitable tolling or other adjustment for the circumstances of simultaneous litigation, and related matters.

(18) Whether the law governing disclosure of public records and the law governing protection of privacy in public records should be revised to better coordinate them, including consolidation and clarification of the scope of required disclosure and creation of a single set of disclosure procedures, to provide appropriate enforcement mechanisms, and to

ensure that the law governing disclosure of public records adequately treats electronic information, and related matters.

(19) Whether the law governing criminal sentences for enhancements relating to weapons or injuries should be revised to simplify and clarify the law and eliminate unnecessary or obsolete provisions.

(20) Whether the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7 of the Government Code) should be revised to improve their organization, resolve inconsistencies, and clarify and rationalize provisions, and related matters.

(21) Whether the Uniform Statute and Rule Construction Act (1995) should be adopted in California in whole or part, and related matters; and be it further

Resolved, That the Legislature approves for study by the California Law Revision Commission the new topic listed below:

A comprehensive review of the Code of Civil Procedure and applicable case law in order to clarify the circumstances in which parties are entitled to oral argument, and related matters; and be it further

Resolved, That before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, the commission shall submit a detailed description of the scope of work to the Chairs and Vice Chairs of the Committees on Judiciary of the Senate and Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 20—Relative to the CHP Officer Thomas J. Steiner Memorial Highway.

[Filed with Secretary of State January 31, 2006.]

WHEREAS, The calling to be a peace officer is one of the highest vocations of public service, and any individual who accepts this calling is worthy of the highest respect and honor the community, state, and nation can provide; and

WHEREAS, California Highway Patrol Officer Thomas J. Steiner was killed in the line of duty in the afternoon of April 21, 2004. Officer Thomas J. Steiner was slain by an armed assailant while leaving Los Angeles Superior Court in Pomona; and

WHEREAS, Thomas J. Steiner succumbed to his injuries as a result of the assault; and

WHEREAS, Thomas J. Steiner is survived by his wife, Heidi, his son, Bryan, his stepson, Justin, his mother, Carole Steiner, his father, Ron Steiner, his sister, Julie Sparks, and many beloved family members and friends; and

WHEREAS, Thomas J. Steiner was born on February 14, 1969, in Richmond, Virginia. His family lived in Long Beach, California, where he attended and graduated from Millikan High School; and

WHEREAS, Prior to beginning his career with the California Highway Patrol, Thomas J. Steiner attended Cal Poly Pomona where he received a Bachelor's Degree in business; and

WHEREAS, Thomas J. Steiner joined the California Highway Patrol on October 19, 1998. After successfully completing his academy training, he reported to the Santa Fe Springs area; and

WHEREAS, Thomas J. Steiner made significant contributions to traffic safety and to the motoring public while assigned to the Santa Fe Springs area office; and

WHEREAS, Thomas J. Steiner served five years as a sworn peace officer for the California Highway Patrol and was known by his fellow officers for his dedication to the department and to the protection of the citizens of our state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the portion of State Highway Route 60 in the City of Pomona, beginning with Phillips Ranch Road and ending at Reservoir Street, as the CHP Officer Thomas J. Steiner Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing these special designations, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 64—Relative to Arts Education Month.

[Filed with Secretary of State February 21, 2006.]

WHEREAS, Arts education, which includes dance, music, theater, and the visual arts, is an essential and integral part of basic education for all pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive; and

WHEREAS, Education in the arts is crucial to achieving a state educational policy that is devoted to the teaching of basic academic skills and lifelong learning capacities, with the goal of truly preparing all children for success after high school regardless of gender, age, economic status, physical ability, or learning ability; and

WHEREAS, A systematic, substantive, and sequential visual and performing arts curriculum addresses and develops ways of thinking, questioning, expression, and learning that complement learning in other core subjects, yet an arts curriculum is unique in what it has to offer; and

WHEREAS, Pupils benefit from arts education in the areas of cultural understanding, readiness for learning and creative thinking, cognitive outcomes, emotional intelligence and expression, social interaction and collaboration, preparation for the workforce, and lifelong learning; and

WHEREAS, Arts education in California is mandated for pupils in grades 1 to 12, inclusive, pursuant to Sections 51210 and 51220 of the Education Code, which require that the adopted course of study include instruction in visual and performing arts, including dance, music, theater and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression; and

WHEREAS, The arts are recognized as part of a quality education, and the University of California and the California State University have instituted a policy that includes visual and performing arts as a college preparatory subject for all high school pupils wishing to enter the institutions of higher education of the state; and

WHEREAS, Senate Bill 1390 of the 1999–2000 Regular Session (Chapter 432 of the Statutes of 2000), authored by Senator Kevin Murray and signed by Governor Gray Davis on September 12, 2000, requires

the adoption of visual and performing arts content standards by the State Board of Education, and states that it is important that instruction in the visual and performing arts be made available to all pupils; and

WHEREAS, Many national and state professional arts education associations hold celebrations in the month of March, giving California schools a unique opportunity to focus on the value of the arts for all pupils, to foster cross-cultural understanding, to give recognition to the state's outstanding young artists, and to enhance public support for this essential part of the curriculum; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims the month of March 2006 as Arts Education Month, encourages all educational communities to celebrate the arts with meaningful activities and programs for pupils, teachers, and the public that demonstrate learning and understanding in the visual and performing arts, and urges all residents to become interested in and give full support to quality school arts programs for children and youth; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 65—Relative to Fragile X Awareness Day.

[Filed with Secretary of State February 21, 2006.]

WHEREAS, Fragile X is the most common inherited cause of mental retardation, affecting people of every race, income level, and nationality; and

WHEREAS, One in every 260 women is a carrier of the Fragile X defect; and

WHEREAS, One in every 4,000 children is born with the Fragile X defect, and typically requires a lifetime of special care at a cost of over $2,000,000; and

WHEREAS, Fragile X remains frequently undetected due to its recent discovery and the lack of awareness about the disease, even within the medical community; and

WHEREAS, The genetic defect causing Fragile X has been discovered, and is easily identified by testing; and

WHEREAS, Inquiry into Fragile X is a powerful research model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive

developmental disorders, and other forms of X-linked mental retardation; and

WHEREAS, Individuals with Fragile X can provide a homogeneous research population for advancing the understanding of neuropsychiatric disorders; and

WHEREAS, With concerted research efforts, a cure for Fragile X may be developed; and

WHEREAS, Fragile X research, both basic and applied, has been vastly underfunded despite the prevalence of the disorder, the potential for the development of a cure, the established benefits of available treatments and intervention, and the significance that Fragile X research has for related disorders; and

WHEREAS, The Legislature of the State of California as an institution and Members of the Legislature as individuals are in unique positions to help raise public awareness about the need for increased funding for research and early diagnosis and treatment for the disorder known as Fragile X; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature declares April 18 of each year to be California Fragile X Awareness Day; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 71—Relative to American Heart Month.

[Filed with Secretary of State February 21, 2006.]

WHEREAS, Heart disease is the leading cause of death and stroke and is the third leading cause of death in California and the United States; and

WHEREAS, Cardiovascular diseases (CVD) is the number one cause of death for women, claiming the lives of nearly one-half a million American women each year, which is equal to nearly one death every minute; and

WHEREAS, CVD claims the lives of more women than the next six leading causes of death combined, including all cancers; and

WHEREAS, Each year, 53 percent of women die from CVD as compared to 46 percent of men, and 40,000 more women than men die from stroke; and

WHEREAS, Only 38 percent of women report that their doctors have discussed CVD with them when discussing their health; and

WHEREAS, Only 13 percent of women perceive heart disease as their greatest risk; and

WHEREAS, Stroke is the number one cause of serious, long-term disability; and

WHEREAS, Sixty-three percent of women who die suddenly from coronary heart disease had no previous symptoms of the disease; and

WHEREAS, In 2006 the estimated direct and indirect costs of heart disease and stroke total $403.1 billion in the United States, and the economic burden in California is estimated to be over $45 billion; and

WHEREAS, The American Heart Association is the largest voluntary, not-for-profit organization whose mission is to reduce disability and death from heart disease and stroke; and

WHEREAS, The American Heart Association is committed to conducting and supporting medical research that advances knowledge in the areas of prevention and treatment of CVD; and

WHEREAS, The American Heart Association strives to inform all citizens about the critical importance of tools and skills that will increase the survival rate of women from heart disease and stroke; and

WHEREAS, Go Red for Women is the American Heart Association's national call to increase awareness of heart disease and to inspire women to take charge of their health; and

WHEREAS, Go Red for Women educates women on their risks, warning signs, and symptoms of cardiovascular disease and empowers women to live longer and stronger lives; and

WHEREAS, Wear Red for Women Day is recognized nationwide each year to highlight the Go Red for Women campaign; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the month of February 2006 as American Heart Month in California in order to raise awareness of the effect of heart disease on women; and be it further

Resolved, That the Legislature recognizes February 3, 2006, as Wear Red for Women Day in California and urges all citizens to become aware of the vital issues of women's heart health by wearing and displaying the color red on that day; and be it further

Resolved, That the Legislature urges public support for Go Red for Women events planned in their community during the 2006 American Heart Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 6

Senate Joint Resolution No. 10—Relative to the USA PATRIOT ACT.

[Filed with Secretary of State February 21, 2006.]

WHEREAS, The State of California recognizes the Constitution of the United States of America as our charter of liberty, and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS, The State of California has a distinguished history of safeguarding the freedoms of its residents; and

WHEREAS, Each of the California's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, The State of California denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS, Any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent persons in the State of California and the nation; and

WHEREAS, Certain provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, also known as the USA PATRIOT ACT, allow the government greater authority to detain and investigate persons and to engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our federal and state constitutions, including rights of due process, the right to privacy, the right to counsel, protection against unreasonable searches and seizures, and basic First Amendment freedoms; and

WHEREAS, The people of California are concerned that many provisions of the USA PATRIOT ACT, pose significant threats to constitutional protections; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the State of California supports appropriate and effective measures by the government of the United States of America and the State of California to combat terrorism, and affirms its commitment that the campaign not be waged at the expense of essential civil rights and

liberties of citizens of this country contained in the United States Constitution and the Bill of Rights; and be it further

Resolved, That the State of California also urges its congressional delegation to work to repeal any provisions of the USA PATRIOT ACT that limit or impinge on rights and liberties protected equally by the United States Constitution and the California Constitution, and to oppose any pending and future federal legislation to the extent that it would infringe on Americans' civil rights and liberties; and be it further

Resolved, That the State of California will ensure that no state resources be provided for any action that would violate the United States Constitution, or the Constitution of the State of California, including but not limited to, all of the following:

(1) Collecting or maintaining information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership, unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

(2) Recording, filing or sharing intelligence information concerning a person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, and other personal data, without reasonable suspicion of criminal activity, even if authorized under the USA PATRIOT ACT.

(3) Demanding nonconsensual releases of student and faculty records from public schools and institutions of higher learning.

(4) Eavesdropping on confidential communications between lawyers and their clients.

(5) Engaging in profiling that enables law enforcement agencies to use race, religion, ethnicity, or national origin as factors in selecting individuals to be subject to investigational activities, except when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress, the Attorney General of the United States, and to all federal and state law enforcement agencies.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 103—Relative to Korean–American Day.

[Filed with Secretary of State February 22, 2006.]

WHEREAS, On January 13, 1903, the history of Korean immigration to America began as 102 courageous Korean men, women, and children ventured across the vast Pacific Ocean aboard the S.S. Gaelic to land in Hawaii; and

WHEREAS, The hopes of these Koreans for the promised land of opportunity was quickly frustrated by social, economic, and language barriers of unforeseen magnitude; and

WHEREAS, They did not falter in their pursuit of the American dream, but through tenacious effort and sacrifice, established a new home in a new land and educated their Korean–American children; and

WHEREAS, While the first Korean immigrants fought for the freedom and independence of their motherland, their children grew up to be patriotic American citizens, served in the Armed Forces of the United States during World War II, and made other important contributions to mainstream America; and

WHEREAS, While the first wave of immigrants gradually made inroads into California society, a timely enactment of the federal Immigration Act of 1965 opened wide doors for a second wave of Korean immigration; and

WHEREAS, Beginning in the 1970s, in search of better opportunities for their children, a multitude of dynamic Koreans joined the increasing flow of immigration to California; and

WHEREAS, With diligence, fortitude, and a strong belief in the American dream, these immigrants turned emergent areas into thriving and respectable California communities while raising children as productive Korean–Americans; and

WHEREAS, Korean–Americans have become an integral part of the State of California and have made important contributions to mainstream American society; and

WHEREAS, In a quarter century, young Korean–Americans joined mainstream society and began to make significant contributions as Californians in the fields of finance, technology, law, medicine, education, sports, media, the arts, the military, and government, as well as in other areas; and

WHEREAS, As the Korean–American community, with a population of nearly two million, prepares for a new era and creates new history, we must instill in the upcoming generations proper appreciation for the

courage and value of their forefathers, a deep sense of their roots, and pride in their own cultural heritage so that they may better contribute to the great State of California, rich with ethnic and cultural diversity; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims January 13, 2006, as Korean–American Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 102—Relative to California Girls and Women in Sports Day.

[Filed with Secretary of State February 27, 2006.]

WHEREAS, National Girls and Women in Sports Day was created in 1987 to honor Flo Hyman, a volleyball legend, and her dedication to the advancement of equality for women in sports; and

WHEREAS, Despite the struggles, women have been making considerable advances in professional, collegiate, club, intramural, masters, high school, junior high school, youth, and recreational sports; and

WHEREAS, Many female athletes have distinguished themselves as representatives of California and the nation in the Olympic and Paralympic games; and

WHEREAS, Childhood obesity has increased in the last three years. Currently, 28 percent of California's children are overweight; and

WHEREAS, The increasing problem of obesity and physical inactivity will cost California an estimated $28 billion annually in medical care, workers' compensation, and lost productivity; and

WHEREAS, Participation in sports and physical education is acknowledged as a positive force in developing and promoting the physical, mental, moral, social, and emotional well-being of individuals; and

WHEREAS, The bonds built between girls and women through athletics help to break down the social barriers of racism and prejudice, and the communication and cooperation skills learned play a key role in the athlete's contributions at home, at work, and to society; and

WHEREAS, There is a continuing need to encourage women of all ages to compete in and contribute to sports at all levels of competition

and recreation and help prepare the next generation of female sports leaders; and

WHEREAS, Girls' and women's athletics at all levels is one of the most effective avenues available through which women in America may develop self-discipline, initiative, confidence, and leadership skills; and

WHEREAS, The combined efforts of Girls Incorporated, the National Association for Girls and Women in Sport (NAGWS), the Women's Sports Foundation, the Girl Scouts of the United States, and the Young Women's Christian Association (YWCA) of the United States have served to bring needed information and important recognition of this day; and

WHEREAS, The continued support of the NAGWS mission statement by the California Association for Health, Physical Education, Recreation and Dance, and the athletic programs of the California Community College Commission on Athletics, and the California Interscholastic Federation have furthered the dreams and inspired today's female athletes; and

WHEREAS, The theme of this year's 20th annual national celebration, "Count Me In," supports the ongoing struggle for access and equality, both on and off the field; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commemorates the accomplishments of female athletes, coaches, officials, and sports administrators for their important contributions in promoting the value of sports participation in the achievement of full human potential, and hereby proclaims February 1, 2006, as California Girls and Women in Sports Day; and be it further

Resolved, That the National Association for Girls and Women in Sport support actions by state and local governments and local educational agencies that will provide for high-quality daily physical education programs, physical activity programs, and sports programs for all children in kindergarten through grade 12; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 101—Relative to a Day of Remembrance.

[Filed with Secretary of State March 20, 2006.]

WHEREAS, On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, under which 120,000 Americans and resident aliens of Japanese ancestry were incarcerated in internment camps during World War II; and

WHEREAS, Executive Order 9066 deferred the American dream for 120,000 Americans and resident aliens of Japanese ancestry by inflicting a great human cost of abandoned homes, businesses, careers, professional advancements, and disruption to family life; and

WHEREAS, Despite their families being incarcerated behind barbed wire in the United States, approximately 33,000 veterans of Japanese ancestry fought bravely for our country during World War II, serving in the 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion; and

WHEREAS, The 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion heroically suffered nearly 10,000 casualties and are honored as being among World War II's most decorated combat teams, having received seven Presidential Distinguished Unit Citations, 52 Distinguished Service Crosses, 588 Silver Stars, 5,200 Bronze Stars, and 9,486 Purple Hearts; and

WHEREAS, On June 21, 2000, President William Jefferson Clinton elevated 20 Japanese Americans who served in the 100th Battalion and the 442nd Regimental Combat Team and were among 52 individuals who received the nation's second highest award—the Distinguished Service Cross—to receive the nation's highest military honor—the Medal of Honor—bringing the total number of recipients who so received the Medal of Honor to 21; and

WHEREAS, Nearly 6,000 veterans of Japanese ancestry served with the Military Intelligence Service and have been credited for shortening the war by two years by translating enemy battle plans, defense maps, tactical orders, intercepted messages and diaries, and interrogating enemy prisoners; and

WHEREAS, Nearly 40 years subsequent to the United States Supreme Court decisions upholding the convictions of Fred Korematsu, Min Yasui, and Gordon Hirabayashi for violations of curfew and Executive Order 9066, it was discovered that the United States War Department and Department of Justice officials had altered and destroyed evidence regarding the loyalty of Americans and resident aliens of Japanese ancestry and withheld information from the United States Supreme Court; and

WHEREAS, Dale Minami, Peggy Nagae, Rod Kawakami, and many attorneys and interns contributed innumerable hours to win a reversal in 1983 of the original convictions of Korematsu, Yasui, and Hirabayashi

by filing a petition for writ of error coram nobis on the grounds that fundamental errors and injustice occurred; and

WHEREAS, On August 10, 1988, President Ronald Reagan signed into law the Civil Liberties Act of 1988, finding that Executive Order 9066 was not justified by military necessity and, hence, was caused by racial prejudice, war hysteria, and a failure of political leadership; and

WHEREAS, February 19, 2006, marks 64 years since the signing of Executive Order 9066 and a policy of grave injustice against American citizens and resident aliens of Japanese ancestry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares February 19, 2006, as a Day of Remembrance in this state to increase public awareness of the events surrounding the internment of Americans of Japanese ancestry during World War II; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Superintendent of Public Instruction, the State Library, and the State Archives.

RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 106—Relative to the White Ribbon Campaign.

[Filed with Secretary of State March 20, 2006.]

WHEREAS, According to the California Department of Justice, over 600 incidents of domestic violence are reported every day in California; and

WHEREAS, According to the Surgeon General, United States Public Health Service, domestic violence is a societal problem of epidemic proportions; and

WHEREAS, According to Community Overcoming Relationship Abuse, nearly one in three women will be the victim of domestic abuse in her lifetime, three to 10 million children witness domestic violence every year, and one in five high school females experience dating violence; and

WHEREAS, In addition to the physical and psychological effect of domestic violence on the victim and the victim's family, there are job-related consequences as well. As the number one cause of injury to women, domestic violence costs American business between three and five billion dollars each year in absenteeism, medical costs, employee turnover, and lost productivity; and

WHEREAS, The goals of the White Ribbon Campaign are to urge men to show their support for ending men's violence against women, raise awareness of the problem in the community, conduct educational work in schools, workplaces, and communities, and to support organizations that deal with the consequences of violence against women; and

WHEREAS, Wearing a white ribbon is a statement that an individual will never commit, condone, nor remain silent about violence against women; and

WHEREAS, Wearing a white ribbon fosters a society free from violence against women and encourages reflection and discussion that will lead to personal and collective action among men; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby encourages participation in the White Ribbon Campaign; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 109—Relative to teen dating violence.

[Filed with Secretary of State March 20, 2006.]

WHEREAS, Teen dating violence is a serious and growing problem throughout California; and

WHEREAS, Dating violence is controlling, abusive, and aggressive behavior in a relationship, which can occur in heterosexual or homosexual relationships. It can include verbal, emotional, physical, or sexual abuse, or a combination of any of those; and

WHEREAS, One in three teenagers has experienced violence in a dating relationship; and

WHEREAS, Anyone can be a victim of dating violence. Both boys and girls are victims, but boys and girls tend to abuse their partners in different ways. Girls are more likely to yell, threaten to hurt themselves, pinch, slap, scratch, or kick, while boys are more likely to physically injure or force unwanted sexual activity. Some teenage victims experience violence occasionally while others are abused much more often; and

WHEREAS, Young women, ages 16 to 24 years, inclusive, experience the highest rates of dating violence; and

WHEREAS, Teenage victims are highly vulnerable to being revictimized; one study found that 80 percent of youths reporting violent behavior had been victimized two or more times; and

WHEREAS, Among female students between the ages of 15–20 years who reported at least one violent act during a dating relationship, 24 percent reported experiencing extremely violent incidents such as rape or the use of weapons against them; and

WHEREAS, In a study of eighth and ninth graders, 25 percent indicated that they had been victims of dating violence, including eight percent who disclosed being sexually abused; and

WHEREAS, Approximately one in five female public high school students reported ever experiencing physical or sexual violence from dating partners; and

WHEREAS, Teenagers are less likely to report their victimization than adults because of the shock, shame, and stigma attached to being a victim of a crime. These obstacles represent a barrier to vulnerable teenagers seeking help; and

WHEREAS, Increased awareness of teenage dating violence is the first step toward prevention of this type of abuse; and

WHEREAS, Teenagers deserve to be in a relationship free of the fear of violence. They have a right to have safe relationships; and

WHEREAS, Governmental, private organizations, public officials as well as private citizens must work together to raise the awareness of the high incidence of teenage dating violence and to promote prevention strategies; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims the week of February 6–10 as Teen Dating Violence Awareness and Prevention Week; and be it be further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 12

Assembly Concurrent Resolution No. 110—Relative to Presidents' Day.

[Filed with Secretary of State March 20, 2006.]

WHEREAS, Federal law declares the third Monday in February as President Washington's Birthday, and President Lincoln's Birthday is celebrated in February; and

WHEREAS, In 1971, President Nixon issued a proclamation renaming the third Monday in February as Presidents' Day, honoring all past presidents of the United States; and

WHEREAS, Four of our Presidents were born in February; and

WHEREAS, George Washington was born on February 22, 1732. He was indispensable in creating a united nation out of 13 separate colonies by leading them to victory in the War for Independence. As the first President of the United States, he is affectionately known as "the father of his country"; and

WHEREAS, William Henry Harrison was born on February 9, 1773. He was a popular General during the War of 1812 and was elected President in 1840. He died of pneumonia only a month into his Presidency, becoming the first President to die in office; and

WHEREAS, Abraham Lincoln was born on February 12, 1809. He kept the Union together during the Civil War and his efforts led to the abolition of slavery in the United States. Best known for his honesty, Lincoln remains one of the most respected Presidents in American history; and

WHEREAS, Ronald Reagan was born on February 6, 1911. His vision of "peace through strength" led the United States to eventual victory in the Cold War and restored prosperity after a decade of hard times. Reagan's popularity continues to grow even after his death; and

WHEREAS, Every President of the United States has made a significant contribution to making America the great nation that it is; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that February 20, 2006, shall be known as Presidents' Day; and be it further

Resolved, That the Legislature calls upon all Californians to remember and honor all the men who have served as President of the United States on this day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 113—Relative to Spay Day USA 2006.

[Filed with Secretary of State March 20, 2006.]

WHEREAS, At least a quarter million dogs and possibly twice as many cats are euthanized in California each year; and

WHEREAS, In most instances these dogs and cats are young, healthy, and friendly animals who are euthanized simply because there are not enough good homes for them; and

WHEREAS, An additional unknown number of animals die each year due to abandonment, neglect, abuse, starvation, or cruelty because they are unwanted; and

WHEREAS, The spaying or neutering of dogs and cats helps solve this tragic problem by reducing the number of unwanted animals; and

WHEREAS, Californians can contribute to this effort by spaying or neutering their own companion animals and by supporting programs in their communities that offer accessible spay and neuter services; and

WHEREAS, Veterinarians, humane societies, animal control agencies, and national and local animal welfare organizations will join together to advocate the spaying or neutering of dogs and cats on "Spay Day USA 2006"; and

WHEREAS, In particular, the Sacramento area has become a leader in coordination of Spay Day USA events, spaying or neutering nearly 1,000 dogs and cats during each of the past three years, with nearly 1,000 dogs and cats scheduled for Spay Day USA 2006; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares February 28, 2006, to be Spay Day USA 2006 and that Californians are requested to observe the day by having their dogs or cats spayed or neutered and by contributing to charitable organizations that provide spay and neuter services, and that California veterinarians are requested to work with animal shelters and rescue groups to provide accessible spay and neuter services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 115—Relative to César Chávez Day.

[Filed with Secretary of State April 5, 2006.]

WHEREAS, On March 31, 1927, a true hero named César Estrada Chávez was born in Yuma, Arizona, to Librado and Juana Chávez and became the second oldest in a family of five children. César Chávez

lived his life dedicated to improving the plight of farmworkers through struggle, sacrifice, and self-denial. He founded and led the first successful farmworkers' union in United States history. He stood for dignity and justice for farmworkers. Today, he remains a symbol of hope to all Californians who find hope and peace in justice; and

WHEREAS, In the 1930s, during the Great Depression, César Chávez' father lost his small farming business and the family went broke. The family became migrant workers and joined some 30,000 workers who followed the crops from Arizona into southern California, then up the length of the Central Valley and back again, picking everything from peas to cotton. They lived in tents and other makeshift housing that often lacked a bathroom, electricity, or running water. Schooling for Chávez was irregular and haphazard. He attended some 30 different schools, often encountered discrimination, and was punished for speaking Spanish; and

WHEREAS, After graduation from the eighth grade, César Chávez was forced to quit school and take to the fields in order to help support his family. In 1944, at the age of 17, César Chávez joined the Navy and served in World War II. After he completed his tour of duty, César Chávez returned to California and married Helen Fabela, a woman who shared his dedication to the cause of the farmworker. They lived in San Jose in a tough Mexican neighborhood called "Sal Si Puedes" which translates to "get out if you can," and together raised eight children; and

WHEREAS, As a farmworker, César Chávez experienced firsthand the injustice of working long hours with little pay. Instilled with a sense of justice passed down from his mother, César Chávez made a decision to speak up and fight for change. He took part in his first strike in protest of low wages and poor working conditions for farmworkers. Although initially unsuccessful, his participation in that first strike was to mark the beginning of a long career in which he fought for improved working and living conditions for farmworkers; and

WHEREAS, In 1962, César Chávez resigned his position with the Community Services Organization to embark on a bold new undertaking to form a farmworkers' union. He was joined by the great Dolores Huerta, and together they became the architects of the National Farm Worker's Union, the forerunner to the present United Farm Workers (UFW); and

WHEREAS, In 1965, César Chávez led a strike of California grapepickers to demand higher wages, and urged all Americans to boycott table grapes as a show of support. The strike included a 340-mile march from Delano to Sacramento in 1966 in which thousands of farmworkers and supporters marched in solidarity. The farmworkers and supporters carried banners with the black eagle with the words "HUELGA" (strike) and "VIVA LA CAUSA" (long live our cause); and

WHEREAS, César Chávez preached nonviolence to the strikers even as they were physically abused by many of those opposed to the grape boycott. In 1968, he began a Ghandi-like fast to call attention to the migrant workers' cause. Although his dramatic act did little to solve the immediate problem, it increased public awareness of the conditions under which farmworkers labored. In 1973, the UFW organized a strike for higher wages from lettuce growers, and, after many battles, an agreement was finally reached in 1977 that gave the UFW the sole right to organize farmworkers; and

WHEREAS, During the 1980s, César Chávez led the effort to call attention to the health problems of farmworkers caused by the use of certain pesticides on crops; and

WHEREAS, On April 23, 1993, César Estrada Chávez died peacefully in his sleep in San Luis, Arizona. During his funeral, Cardinal Roger M. Mahoney, who celebrated the funeral mass, called César Chávez "a special prophet for the world's farmworkers"; and

WHEREAS, Many declared that the UFW would die without him, but on César Chávez' birthday, March 31, 1994, under the leadership of his son-in-law, Arturo Rodriquez, the UFW marched 343 miles from Delano to Sacramento, echoing César Chávez' historic 1966 march, and demonstrated that the UFW still worked for farmworkers; and

WHEREAS, In 1990, Mexican President Salinas de Gortari awarded César Chávez, the "El Aguila Azteca" (the Aztec Eagle), Mexico's highest award presented to people of Mexican heritage who have made major contributions outside of Mexico. He also became the second Mexican-American to receive the Presidential Medal of Freedom, the highest civilian honor in the United States, which was presented posthumously to his wife, Helen Chávez, and their children on August 8, 1994, by President William Jefferson Clinton; and

WHEREAS, In 1994, César Chávez' family and the officers of the UFW created the César E. Chávez Foundation to inspire current and future generations by promoting the ideals of César Chávez' life, work, and vision. Communities throughout California and the United States have honored the memory of César Chávez by naming schools, parks, children's centers, streets, and other public works after the leader; and

WHEREAS, César Chávez led by example, giving of himself so that he might help others. His relentless pursuit of the belief that the American dream should be available to all Americans, regardless of race or national origin, stands as a monument to our free society. His life and work is not only an inspiration to Latinos, but to working Americans of all nationalities. His legacy lives on in the improved working and living conditions of hundreds of thousands of Californians and their families; and

WHEREAS, In the year 2000, the Legislature enacted Senate Bill 984 (Chapter 213 of the Statutes of 2000) to create an annual state holiday on César Chávez' birthday, March 31. This holiday provides all Californians the opportunity to learn from César Chávez' life and provides schoolchildren the opportunity to learn through community service; and

WHEREAS, The State Board of Education on Wednesday, February 6, 2002, adopted a model curriculum on the life and work of César Chávez, fulfilling a key provision of Chapter 213 of the Statutes of 2000, that also includes topics on pesticides, immigration, and agriculture's role in the economy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes March 31, 2006, as the anniversary of the birth of César Chávez, and calls upon all Californians to participate in appropriate observances to remember César Chávez as a symbol of hope and justice to all persons; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 121—Relative to the 1906 San Francisco earthquake.

[Filed with Secretary of State April 5, 2006.]

WHEREAS, The Great San Francisco earthquake of April 18, 1906, resulted in over 3,000 fatalities and left one-half of the 400,000 residents of the city homeless; and

WHEREAS, The financial and economic impacts were widespread and felt across and throughout the entire state; and

WHEREAS, April 18, 2006 is the Centennial Anniversary of that historic and catastrophic event; and

WHEREAS, Risk Management Solutions, Inc., estimates that a repeat of the 1906 San Francisco earthquake would result in up to 8,000 deaths, 18,000 injuries requiring hospitalization, and projected losses of up to $225 billion; and

WHEREAS, The Southern California Earthquake Center recently reported that an earthquake on a fault beneath Los Angeles could result in up to 18,000 fatalities, up to 735,000 displaced households, and in excess of $250 billion in total damages in the region; and

WHEREAS, Recent testimony from the Director of the Department of Water Resources stated that a 6.5 magnitude earthquake could cause a collapse of up to 30 levees; flood 16 Delta islands, 3,000 homes, and over 85,000 acres of Delta farmland; and damage 200 miles of additional levees, resulting in $30 billion in damages; and

WHEREAS, The 1989 Loma Prieta earthquake and the 1994 Northridge earthquake are vivid and sobering reminders of the ongoing and unpredictable risk that earthquakes continue to pose to the residents and the vital infrastructure of California, including dams, levees, bridges, critical energy infrastructure, and essential services buildings; and

WHEREAS, Because of its unique geological and seismic character, California remains one of the most seismically active regions on earth, with massive and potentially destructive fault systems such as the San Andreas fault capable of generating earthquakes of magnitude 8.0, and the Hayward fault capable of generating earthquakes of magnitude 7.25; and

WHEREAS, California continues to have numerous, large-scale, and poorly understood fault systems; and

WHEREAS, The majority of California's 35 million residents live and work in areas subject to earthquakes; and

WHEREAS, An increasing population will put more Californians at risk from earthquakes in the future; and

WHEREAS, "Disaster Resistant California" (a consortium consisting of the Governor's Office of Emergency Services, the California Seismic Safety Commission, the Collaborative for Disaster Mitigation of San Jose State University, the Earthquake Engineering Research Institute, the Seismological Society of America, the Western States Seismic Policy Council, and the Association of Bay Area Governments) will jointly observe the Centennial Anniversary of the Great San Francisco earthquake by hosting a mega-conference in San Francisco on earthquakes and the state's preparedness, starting April 18, 2006; and

WHEREAS, It is indisputable that California must assume a proactive role to protect its residents from the threat of destruction by future damaging earthquakes; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature continue to study, plan, prepare, and support future actions that will strengthen the state's ability to withstand, respond to, and recover from the next major earthquakes, which inevitably will occur, and that the Legislature hereby states its intent that the lessons learned from past earthquakes be applied to California's preparedness, emergency response, and recovery efforts;

Resolved, That the Legislature hereby memorializes April 18, 2006, as the 100th anniversary of the 1906 San Francisco earthquake;

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 125—Relative to Agriculture Day.

[Filed with Secretary of State April 5, 2006.]

WHEREAS, March 20, 2006, is National Agriculture Day, a day set aside to honor the hard working men and women of agriculture, and to promote an understanding of America's agricultural industry; and

WHEREAS, March 20, 2006, is California Agriculture Day, a day of celebration to commemorate agriculture's vital role in keeping Californians nourished and the state's economy ranked as the 5th largest in the world; and

WHEREAS, California's agricultural community provides a vital infrastructure that aids in the exclusion and early detection of plant and animal pests and diseases that impact public health, the environment, and commerce; and

WHEREAS, For approximately 57 consecutive years, California has been the number one agricultural state in the nation, producing more than 350 crop and livestock products and accounting for approximately 50 percent of the nation's supply of fruits, vegetables, and nuts; and

WHEREAS, The inexhaustible efforts of approximately 850,000 farmworkers have contributed greatly to the success of the industry; and

WHEREAS, With less than 1 percent of California's population engaged in farming and agriculture, each agricultural worker today provides for more than 100 other people, compared to just 13 in 1947; and

WHEREAS, Today's agricultural industry offers over 200 challenging and rewarding career opportunities, from on-farm cultivation, to food science and engineering; and

WHEREAS, Over the past 5 decades, advances in production agriculture have resulted in a drop in consumer spending on food products from 24 percent of disposable income in 1949 to approximately 9 percent today; and

WHEREAS, California is the nation's leader in agricultural exports, annually shipping more than 6.5 billion dollars worth of food and agricultural commodities to continents ranging from Europe to Asia, and from Africa to South America; and

WHEREAS, California's agricultural industry constantly seeks to incorporate the latest scientific and technological production and marketing techniques to meet the demands of changing consumer needs and complex world markets; and

WHEREAS, Government-industry partnerships are continually being developed to improve quality and ensure safe handling practices on the farm, in transit, and during processing; and

WHEREAS, "California Grown" is a public-private partnership campaign that emphasizes our strong ties to the land and our neighbors and our desire to restore pride in our homegrown products and our quality of work; and

WHEREAS, A broad approach to agricultural education is vital to ensure that California agriculture continues to flourish; and

WHEREAS, The California 5 A Day For Better Health campaign, launched in 1988, was the precursor for the National 5 A Day Program, which spreads the message that healthy eating through the consumption of fruits and vegetables can reduce the risk of heart disease and cancer by as much as 30 percent; and

WHEREAS, It is appropriate for all Californians to recognize our farmers, farmworkers, and others involved in providing such a bounty to our nation and the entire world; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it takes great pleasure in honoring the men and women of California agriculture for their dedication and productivity by observing the week of March 19 to March 25, 2006, as National Agriculture Week, and Monday, March 20, 2006, as California Agriculture Day and National Agriculture Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 17

Senate Concurrent Resolution No. 92—Relative to nonprofit and philanthropic organizations.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, One of the great strengths of California is the presence of vigorous nonprofit and philanthropic organizations that provide a private means to pursue public purposes outside the confines of either the market or the state; and

WHEREAS, Residents of California have joined together to form over 139,000 nonprofits, including more than 104,000 active charitable nonprofits under Section 501(c)(3) of the Internal Revenue Code, 5,900 private foundations, and 26,000 religious groups, that employ over 900,000 people and receive and spend over $150 billion per year; and

WHEREAS, Nonprofit and philanthropic organizations touch the lives of every person in California by serving people from all walks of life, socioeconomic groups, political orientations, ethnicities, ages, genders, and cultural backgrounds; and

WHEREAS, Embraced within the nonprofit sector are some of our state's premier universities, hospitals, symphonies, museums, theaters, and grassroots groups as well as thousands of community organizations that channel our impulses for charity, justice, and compassion to serve the common good and support and empower those in greatest need; and

WHEREAS, One-half of all hospital care, most human services, a significant share of higher education, most low-cost housing, almost all arts and culture, and most social justice and environmental programs are provided by nonprofits; and

WHEREAS, Over 15 million California residents volunteer three to five hours per week with nonprofit organizations; and

WHEREAS, The 5,900 independent foundations, including 15 of the nation's largest independent foundations; 100 corporate foundations; and 29 community foundations, including seven of the nation's largest community foundations, with assets of more than $60 billion, annually give $3.6 billion in grants to California nonprofits; and

WHEREAS, Nonprofit social service and philanthropic organizations have helped millions of Americans get back on their feet, enabling them to become active, productive citizens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the importance and value of nonprofit and philanthropic organizations; and be it further

Resolved, That the Legislature hereby proclaims March 19 through March 25, 2006, as California Nonprofits and Philanthropy Week as presented by the California Association of Nonprofits and its Policy Council; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 18

Senate Concurrent Resolution No. 97—Relative to Child Abuse Prevention Month.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, Child abuse and neglect continue to pose a serious threat to our nation's children; and

WHEREAS, In 1996, more than 3,000,000 children were reported to child protective agencies in the United States as having suffered abuse and neglect; and

WHEREAS, It is estimated that for every three dollars spent on the prevention of child abuse and neglect, at least six dollars are saved that might be spent on child welfare services, special education services, medical care, foster care, counseling, and the housing of juvenile offenders; and

WHEREAS, Child abuse and neglect is a community problem and finding solutions depends on the involvement of people throughout the community; and

WHEREAS, The first organized statewide Blue Ribbon Campaign was originated in Norfolk, Virginia, by the grandmother of Bubba Dickinson, a child who was murdered by his mother's abusive boyfriend; and

WHEREAS, In recent years, the National Committee to Prevent Child Abuse, the California chapter and other local affiliates, United States military bases, and other groups have organized Blue Ribbon Campaigns to increase public awareness of child abuse and to promote ways to prevent child abuse; and

WHEREAS, The National Committee to Prevent Child Abuse, in all its forms, has proclaimed April as National Child Abuse Prevention Month; and

WHEREAS, Blue ribbons are displayed to increase awareness of child abuse and as a strategy for Child Abuse Prevention Month; and

WHEREAS, This year's campaign is entitled "Safe Children and Healthy Families are a Shared Responsibility"; and

WHEREAS, The flexibility of this program offers numerous opportunities to be innovative and to create partnerships within business, professional, and community organizations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature does hereby acknowledge the month of April 2006 as Child Abuse Prevention Month, and encourage the people of the State of California to work together to support

youth-serving child abuse prevention activities in their communities and schools during that month and throughout the year; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 19

Senate Concurrent Resolution No. 100—Relative to Prostate Cancer Awareness Month.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, The American Cancer Society estimates there will be 232,090 new cases of prostate cancer in the United States this year, resulting in 30,350 deaths; and

WHEREAS, In California, prostate cancer is the most common cancer among men in almost all race and ethnic groups; and

WHEREAS, African-American men are 50 percent more likely to develop this disease than any other group of men; and

WHEREAS, Approximately 22,295 men in California will be diagnosed with prostate cancer this year and each day more than eight California men will die from this disease; and

WHEREAS, The survival rate for prostate cancer is 99 percent when the disease is diagnosed and treated early, but drops to 34 percent when the disease spreads to other parts of the body; and

WHEREAS, Early detection is the key to prostate cancer survival and the American Cancer Society recommends that the PSA blood test and the digital rectal examination should be offered to men annually starting at age 50 years; and

WHEREAS, Men in high-risk groups, such as African-Americans or those with a family history of prostate cancer, should begin their annual screening at age 45 years; and

WHEREAS, The California Legislature joins communities across our nation in recognizing Prostate Cancer Awareness Month to increase awareness about the importance of early detection and treatment of this disease; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature designates September 2006 as Prostate Cancer Awareness Month and that all Californians are encouraged to make themselves and their families aware of the risk of prostate cancer and preventive measures; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 72—Relative to Voter Awareness Week.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, Young adults have the greatest lack of knowledge about our government, and the importance of participating in civic activities such as voting; and

WHEREAS, There is a significantly low number of registered young voters, and 43.4 percent of 18- and 19-year-olds were registered to vote and 30.2 percent voted in the 2000 presidential election; and

WHEREAS, Young adults aged 18 to 24 state that they "don't care" as the number one reason for not voting, followed by "voting doesn't make a difference," and that they are "not informed," or "too busy" and "do not have enough time" to vote; and

WHEREAS, Studies show that an unfortunate lack of knowledge of American history, civic values, and government is highly prevalent among young people; and

WHEREAS, Young people are the best resource available to encourage other young people to register to vote and to vote; and

WHEREAS, There was an 8.5-percent increase in the voter turnout among those under the age of 30 when they were encouraged by their peers to register to vote and vote, indicating that when young people talk to each other about civic issues they are more likely to vote; and

WHEREAS, Voter turnout among 18- to 24-year-olds in California has consistently declined, and there has been a 9-percent decrease in California's voter turnout rate among 18- to 24-year-olds, and a 13-percent decrease in the national youth voter turnout rate since 1972; and

WHEREAS, Compared to other states, California has a low youth voter turnout, and in the 2000 presidential election the voter turnout among 18- to 24-year-olds in California was 44 percent and 23 percent in the 2002 statewide general election; and

WHEREAS, 18- to 24-year-olds vote in significantly lower numbers than any other voting population; and

WHEREAS, People who begin voting at a younger age are more likely to vote consistently later in life; and

WHEREAS, Voter apathy is one of the major challenges facing California, and when all 73.3 million of the young people currently under age 17 come of voting age, they will comprise a larger voting population than the baby boomers, necessitating the encouragement of youth to participate in the democratic system in order to train and prepare the next generation of statesmen and civic leaders; and

WHEREAS, A vital part of the civic process requires that youths be well-informed regarding current issues; and

WHEREAS, A primary purpose of California's schools is to prepare students to become active citizens; and

WHEREAS, There is an ongoing need to increase youth civic participation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of October 16 to 20, 2006, as Voter Awareness Week; and be it further

Resolved, That the Legislature encourages all of California's public schools to participate in Voter Awareness Week activities.

RESOLUTION CHAPTER 21

Assembly Concurrent Resolution No. 119—Relative to the Year of the California Museum.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, California is home to over 1,300 museums that are located in every county and region throughout the state and that serve over 26 million visitors annually; and

WHEREAS, California museums represent a multitude of disciplines and learning experiences, including art museums, zoos, aquaria, historical societies, science centers, botanical gardens, children's museums, and cultural centers; and

WHEREAS, California museums encourage curiosity and provide a source of enjoyment and education for every generation and every community across the state and enhance those provided by the public sector; and

WHEREAS, California museums nourish minds and spirits by fostering contemplation, exploration, critical thinking, and dialogue to advance knowledge, understanding and appreciation of history, science, the arts, and the natural world; and

WHEREAS, California museums present exhibitions and programs created through research and scholarship for California residents and

visitors to the state to explore new ideas, exchange stories, and discover collections and objects from our culture and natural heritage; and

WHEREAS, California museums strengthen and enrich the lives of people by inspiring lifelong learning, serving as repositories and stewards for the state's unique histories, culture, achievements, and values; and

WHEREAS, California museums forge relationships with community partners such as schools, libraries, public broadcasting, and neighborhood and social service organizations to foster civic participation and cultural understanding; and

WHEREAS, California museums contribute significantly to the livability and economic vitality of the state and its communities and attract tourists and local visitors, all of whom create a demand for services; and

WHEREAS, California museums are accessible to all residents with one-half of the state's museums providing free admission to adults and others offering free admission days; and

WHEREAS, 2006 marks the nationwide commemoration of the Year of the Museum; and

WHEREAS, The California Association of Museums has served to bring important recognition of this commemorative year and invites all museums, museum service organizations, California residents, and local governments to use this milestone to recognize and celebrate the contributions of California museums as they serve communities, the nation, and the world; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the important role that museums have in the State of California and proclaims 2006 as the Year of the California Museum; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 127—Relative to Women's History Month.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, American women of every culture, class, and ethnic background have participated in the founding and building of our nation, have made historic contributions to the growth and strength of our nation, and have played a critical role in shaping the economic, cultural, and

social fabric of our society, not in the least of ways through their participation in the labor force, working both inside and outside the home; and

WHEREAS, Women have been leaders in every movement for social change, including their own movement for suffrage and equal rights, the fight for emancipation, the struggle to organize labor unions, and the civil rights movement, as well as leading the call for peace and organizing to preserve the environment; and

WHEREAS, In light of these efforts and the achievements of all American women, we take this opportunity to honor women and their contribution to the development of our society and our world; and

WHEREAS, The celebration of Women's History Month will provide an opportunity for schools and communities to focus attention on the historical role and accomplishments of the women of California and the United States, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Women's History Month will be not only a call to acknowledge the outstanding American women whose names we know, but also a call to pay homage to the many women who have anonymously shaped our collective past; and

WHEREAS, The observance of Women's History Week was initiated by the Sonoma County Commission on the Status of Women in 1977, a celebration that evolved into Women's History Month, commemorated throughout the nation by schools, historians, and community groups; and

WHEREAS, The achievements of women who have gone before us will enable contemporary women and men to create tomorrow's history by working toward an end to physical and sexual violence against women, discrimination and harassment in employment, and the relegation to poverty status of many women, and by advocating for the full participation of women in the economic and political arena, the provision of adequate child care, respect for those who choose homemaking and motherhood as their career, and equal access to all of the opportunities this great nation has to offer; and

WHEREAS, The story of the women's rights movement deserves telling because of the significance and scope of women's role in making history and shaping the cultural and societal makeup of California and the United States, and because it is a rich part of our common heritage, a story of gallantry and devotion to the belief that the opportunity for complete human dignity should not be denied to one-half of the state and the nation; and

WHEREAS, The National Women's History Project has adopted this year's theme, "Women: Builders of Communities and Dreams," to honor

the spirit of possibility and hope set in motion by generations of women creating communities, encouraging dreams, and restoring hope in the face of impossible odds; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California takes pleasure in joining the California Commission on the Status of Women and the National Women's History Project in honoring the contributions of women, and proclaims the month of March 2006 as Women's History Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the California State Legislative Women's Caucus, to the Chair of the California Commission on the Status of Women, and to the National Women's History Project, for distribution to appropriate organizations.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 128—Relative to wildlife conservation programs.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, The Sacramento National Wildlife Refuge Complex is the California Federal Junior Duck Stamp Program administrator, and the complex includes 35,000 acres of wetlands and uplands that are intensely managed to maintain quality habitat year-round; and

WHEREAS, California provides breeding and wintering habitat for millions of Pacific Flyway migratory birds, including waterfowl; and

WHEREAS, California's wetlands and associated uplands benefit over 300 species of birds and mammals, both resident and migratory, including several that are listed as threatened and endangered; and

WHEREAS, The Federal Junior Duck Stamp Program was developed by an elementary schoolteacher as a way to creatively involve students in conservation activities; and

WHEREAS, The Federal Junior Duck Stamp Program teaches wetlands and waterfowl conservation through visual arts and science curriculum; and

WHEREAS, The State of California was one of two pilot states for the Federal Junior Duck Stamp Program established in 1989; and

WHEREAS, All 50 states, the District of Columbia, and United States territories now participate, and California maintains the largest

participation with cumulative entries over the last 15 years totaling over 18,000; and

WHEREAS, The Federal Junior Duck Stamp competition in California is open to participation from students in kindergarten through 12th grade; and

WHEREAS, The California competition incorporates California standards-based curriculum material for core subjects such as language arts and science; and

WHEREAS, The program crosses cultural, ethnic, social and geographic boundaries to teach greater awareness of California's natural resources; and

WHEREAS, Students who participate come from all over California, including inner-city and urban areas; and

WHEREAS, Positive reinforcement is provided for all participants, with every student receiving a certificate of participation, 100 students receiving ribbon awards, and top winners and schools receiving art and science supplies; and

WHEREAS, California's Duck Stamp Contest Best of Show winner has regularly placed in the top ten nationally and California's 1997–98 winner also won the Federal Junior Duck Stamp Design Contest and was featured on the Federal Junior Duck Stamp; and

WHEREAS, With the destruction of over 90 percent of California's wetlands, the Federal Junior Duck Stamp Program plays a vital role in raising the awareness of the importance of wetlands to hundreds of species of birds and mammals; and

WHEREAS, Exposing young students who are the future of California to the benefits of wildlife conservation will help to ensure the continued appreciation of California's natural resources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the month of March 2006 as California Federal Junior Duck Stamp Program Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 130—Relative to Kidney Cancer Awareness Month.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, Each year more than 36,000 people in the United States are diagnosed with kidney cancer; and

WHEREAS, The American Cancer Society estimated that last year there were about 36,160 new cases of kidney cancer (22,490 in men and 13,670 in women) in the United States; and

WHEREAS, More than 100,000 kidney cancer survivors are currently living in the United States; and

WHEREAS, Kidney cancer occurs nearly twice as often in men as in women, and mostly in men over 40 years of age; and

WHEREAS, The exact cause of kidney cancer is unknown; and

WHEREAS, Other than surgery, the most commonly used treatments for kidney cancer are immunotherapy, radiation, and chemotherapy; and

WHEREAS, Breakthroughs in research over the last year have given renewed hope to patients who previously had few treatment options; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature designates the month of March 2006, as Kidney Cancer Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the National Kidney Cancer Association, and to the author for appropriate distribution.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 135—Relative to county agricultural commissioners.

[Filed with Secretary of State April 10, 2006.]

WHEREAS, The Legislature enacted a law on March 14, 1881, that provides for the office of the horticultural commissioner, now known as the county agricultural commissioner; and

WHEREAS, While the original charge of the horticultural commissioner was to protect agriculture from certain pests, today the county agricultural commissioners are responsible for promoting and protecting agriculture, the consumer, and the environment; and

WHEREAS, The county agricultural commissioner system is unique to California and has demonstrated a method of delivering services that is both effective and efficient; and

WHEREAS, The county agricultural commissioner system provides local control over areas of great concern to the citizens of this state; and

WHEREAS, The county agricultural commissioners' offices provide many special services that are responsive to the needs of the local community; and

WHEREAS, The county agricultural commissioners enforce pesticide regulations thereby protecting agricultural workers and the environment, while also ensuring consumers are provided with food that is both safe and wholesome; and

WHEREAS, The county agricultural commissioners have served to prevent the introduction of pests into California that would be detrimental to agriculture and the environment, and to further carry out a comprehensive program to detect and eradicate detrimental pests that are introduced into the state; and

WHEREAS, The county agricultural commissioners have contributed to stable markets and consumer confidence in fruits, vegetables, nuts, and honey through a program of quality control inspections; and

WHEREAS, The county agricultural commissioners have provided leadership, research, and field activities for the control of crop-deprecating vertebrate pests, and noxious weeds; and

WHEREAS, The nursery, seed, and apiary industries have been served and protected by the programs carried out by the agricultural commissioners; and

WHEREAS, March 14, 2006, marks the 125th anniversary of the institution of county agricultural commissioners; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California, on behalf of its citizens, does hereby recognize this 125th anniversary of the county agricultural commissioner system in California and does further congratulate each agricultural commissioner and their staff for the dedicated service that has been performed for the citizens of each county and the state.

RESOLUTION CHAPTER 26

Senate Concurrent Resolution No. 52—Relative to the Mayor James Thalman and Mayor Michael Wickman Memorial Highway.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, James Thalman was instrumental in the efforts of the community of Chino Hills to incorporate as a city, and both he and Michael Wickman were elected as members of the first city council of

Chino Hills in November 1991, following its incorporation as a city; and

WHEREAS, During his tenure on the city council, James Thalman was the voice of the city on water issues and represented the city on numerous water committees, as well as serving as a member of the League of California Cities, the Four Corners Policy Committee, and the California Joint Powers Insurance Authority; and

WHEREAS, During his tenure on the city council, Michael Wickman represented the city on the McCoy Equestrian Center Committee and as a member of the board of directors for Omnitrans; and

WHEREAS, James Thalman served three terms as mayor of Chino Hills, and Michael Wickman served as mayor of Chino Hills in 1995 and in 2000; and

WHEREAS, James Thalman and Michael Wickman were charter members of the Chino Hills Kiwanis Club; and

WHEREAS, Michael Wickman was also a member of the Friends of the Chino Hills Library and the Chino Hills Historical Society, and was very active in the Boy Scouts and supported activities of the Filipino Seniors Association; and

WHEREAS, James Thalman lived in Chino Hills for 35 years, and Michael Wickman lived in Chino Hills for 22 years; and

WHEREAS, James Thalman passed away on August 27, 2003, and Michael Wickman passed away on April 13, 2000; and

WHEREAS, In recognition of the contributions made by James Thalman and Michael Wickman to Chino Hills, it would be a fitting tribute to designate a segment of State Highway Route 71 as the Mayor James Thalman and Mayor Michael Wickman Memorial Highway; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the segment of State Highway Route 71 between Soquel Canyon/Central Avenue and Pine Avenue as the Mayor James Thalman and Mayor Michael Wickman Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs consistent with the signing requirements for the state highway system showing this special designation and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 57—Relative to the Robert M. Jackson Memorial Highway.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, Robert M. Jackson was born in Sacramento, California, on September 21, 1912. His family moved to Markleeville in Alpine County when he was two weeks old and remained there until 1924 when they moved to Los Angeles County; and

WHEREAS, Robert M. Jackson returned every summer to Alpine County to work at the historic Alpine Hotel; and

WHEREAS, In 1942 Robert M. Jackson enlisted in the United States Army Air Corps. He was stationed in Texas, Brazil, and finally in the Ascension Islands. After being discharged in 1945, he returned to Markleeville where he built the home he lived in for the rest of his life; and

WHEREAS, In October 1946, Robert M. Jackson began work with the Alpine County Public Works Department, where he spent more than 30 years surveying, engineering, constructing, and realigning many of the county and state highway routes of today; and

WHEREAS, Robert M. Jackson's most significant accomplishment was the completion of State Highway Route 89 over Monitor Pass in the early 1950's. This 18-mile span traverses both Alpine and Mono Counties; and

WHEREAS, State Highway Route 89 over Monitor Pass is a mountainous state highway reaching elevations in excess of 8500 feet. The original road grade was crooked and steep, as much as 17% in some places. The majority of the survey work done by Robert M. Jackson was on horseback. Alpine County and the Department of Transportation cooperated for 7 years to complete the project, which was dedicated on September 12, 1954; and

WHEREAS, Robert M. Jackson retired from Alpine County in 1973, after 27 years of service. He remained in Alpine County until his death on May 12, 2004; and

WHEREAS, It is a fitting tribute to the legacy of a dedicated public servant that a portion of his most significant accomplishment be designated in his name; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 89 from the Alpine/Mono County line to the junction of State Highway Route 89 and State Highway Route 4 be designated the Robert M. Jackson Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs consistent with the signing requirements for the state highway system, and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 28

Senate Concurrent Resolution No. 67—Relative to Shaken Baby Syndrome Awareness Week.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, The 550,995 children born in California every year are our most vulnerable citizens; and

WHEREAS, The American Academy of Pediatrics recognizes that babies, infants and toddlers are especially vulnerable to "Shaken Baby Syndrome", the pattern of injury that results from an act of violent shaking by a parent or caregiver, but that children as old as five years of age can be injured by such acts of shaking; and

WHEREAS, Shaken Baby Syndrome and other inflicted head trauma is now recognized as a leading cause of child fatalities; and

WHEREAS, Researchers at the University of California, Irvine report that children between the ages of birth and five months are at the greatest risk of injury and death due to abuse or neglect; and

WHEREAS, A 2003 report in the Journal of the American Medical Association surveyed the incidence of Shaken Baby Syndrome and estimates that an average of 300 children will die and 600 to 1,200 more children will be injured, with many cases resulting in severe and permanent disabilities, including loss of vision, brain damage, paralysis, and seizures; and

WHEREAS, Medical professionals believe that thousands more cases of Shaken Baby Syndrome are being misdiagnosed or not detected; and

WHEREAS, It is estimated that during an average year in California, nearly 230 children under five years of age will require medical attention because of inflicted head injuries, of which two-thirds are likely to occur in babies or infants younger than one year of age; and

WHEREAS, These inflicted injuries are usually precipitated when a parent or caregiver is not prepared to cope with the frustration and anger

that can result from the inconsolable crying of an infant or unrealistic expectations of a child's behavior; and

WHEREAS, It is estimated that 10 to 20 percent of infants experience episodes of colic, characterized by inconsolable crying for more than three hours a day for more than three weeks, meaning that every year between 55,000 and 100,000 Californian babies may have such sustained periods of crying, with commensurate stress for their caregivers; and

WHEREAS, A survey conducted by Prevent Child Abuse America found that one-half of Americans with children believe parents do find themselves in situations where they are afraid they might abuse or neglect their child; and

WHEREAS, Shaken Baby Syndrome and other inflicted injuries are totally preventable; and

WHEREAS, The medical costs of treating Shaken Baby Syndrome cases and the costs of rehabilitation services to surviving infants, may exceed more than one million dollars ($1,000,000) for the care of a single disabled child during the first few years of life; and

WHEREAS, The costs of those services are primarily paid by the State of California Medicaid program, which in the year 2000 paid for 42.4 percent of births in the state, and by private health insurers, resulting in higher taxes and health insurance costs for all citizens of the state; and

WHEREAS, Shaken Baby Syndrome cases further impact costs to communities in many ways, including the investigation and prosecution of SBS cases, the tragic disruption of families, and the special education needs that are frequently required by those who have survived even modest head traumas; and

WHEREAS, Shaken Baby Syndrome prevention programs have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can effect a significant reduction in the number of Shaken Baby Syndrome cases; and

WHEREAS, Training and education for child care providers, as well as our high school and middle school students, who are frequently employed as paid or unpaid babysitters, is also effective in helping keep young children safe from injury; and

WHEREAS, The minimal costs and effort involved in such educational and preventive programs avert enormous medical and disability costs and untold grief for many families; and

WHEREAS, Efforts to prevent Shaken Baby Syndrome are supported by numerous organizations such as the American Academy of Pediatrics, the National Exchange Club, the Kiwanis, the Children's Trust Fund, Parents' Action, Healthy Starts Coalition, as well as advocacy groups

formed by parents and relatives of children who have been killed or injured by shaking, such as the National Shaken Baby Coalition, the Shaken Baby Association, the SKIPPER Initiative, and the Shaken Baby Alliance; and

WHEREAS, The California Senate and Assembly strongly support efforts to protect our children, especially by education and awareness activities that enable parents to keep their children safe from injury; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Senate and the Assembly recognize the week of April 16 through April 22, 2006, as "Shaken Baby Syndrome Awareness Week" in the State of California; and be it further

Resolved, That the California Senate and the Assembly request that the Governor proclaim the week of April 16 through April 22, 2006, as "Shaken Baby Syndrome Awareness Week" in the State of California; and be it further

Resolved, That the California Senate and the Assembly encourage the Legislature and the Governor to undertake all practicable efforts to educate new parents, child care providers, foster and adoptive parents, babysitters and others who care for our children about Shaken Baby Syndrome, including the causes and consequences of shaking injuries, the need to be prepared to cope with frustration and anger, and the need to educate all other caregivers of a child about the danger of shaking and ways they can help protect that child from injury; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 29

Senate Concurrent Resolution No. 70—Relative to Lung Cancer Awareness Month.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, Lung cancer is the leading cause of cancer deaths in both men and women in California, the United States, and the world, this year killing more Americans than the next six cancers combined, including breast, prostate, colon, liver, kidney, and melanoma cancers; and

WHEREAS, In 2006, approximately 174,470 Americans will be diagnosed with lung cancer and 162,460 Americans will be lost to lung cancer, including an estimated 13,870 Californians; and

WHEREAS, In the early stages of lung cancer, symptoms are usually not apparent. However, when symptoms occur, the cancer is often advanced. Symptoms of lung cancer include chronic cough, hoarseness, coughing up blood, weight loss and loss of appetite, shortness of breath, fever without a known reason, wheezing, repeated bouts of bronchitis or pneumonia, and chest pain; and

WHEREAS, There is currently no standard screening for early detection of lung cancer that greatly improves the survival rate; and

WHEREAS, The majority of new cases of lung cancer each year are in former smokers or persons who have never smoked; and

WHEREAS, Although there is a strong link between tobacco and lung cancer, there is a critical need for further research to understand the complex interrelationship of genetic, molecular, and other biologic processes to explain the development of lung cancer in those who have never smoked and the failure of the majority of heavy smokers to develop the disease; and

WHEREAS, Lung cancer research has been chronically underfunded in proportion to its public health impact resulting in a five-year survival rate, which has remained relatively unchanged over the last 30 years, while the survival rate for most other cancers has improved significantly; and

WHEREAS, A large portion of tobacco-related funding is used for purposes other than that of lung cancer research, yet lung cancer funding from both public and private sources is negatively impacted by its association with smoking; and

WHEREAS, In order to build awareness and save lives, the Lung Cancer Alliance, a national patient advocacy group for lung cancer dedicated to helping build awareness of this disease, has proclaimed November as Lung Cancer Awareness Month; and

WHEREAS, It is only fitting and proper for the State of California, which has been a leader in antismoking legislation, to join the nation in designating November as Lung Cancer Awareness Month so that through better education and an increased attention to funding priorities, more cases of lung cancer may be found in the early stage, leading to the chance of long-term survival rate as high as 85 percent, and more options are available for treatment of the disease at all stages; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of November is annually designated Lung Cancer Awareness Month in the State of California and that public officials and the citizens of California are encouraged to observe the month with appropriate activities and programs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 30

Senate Concurrent Resolution No. 101—Relative to Motorcycle Awareness Month.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, Motorcycle riding is a popular form of efficient transportation and recreation for more than 1,000,000 people in California; and

WHEREAS, Motorcycles provide a means of transportation that uses fewer resources, causes less wear and tear on public roadways, and increases available parking areas; and

WHEREAS, It is important that drivers of all vehicles be aware of one another and learn to share the road and practice courtesy; and

WHEREAS, It is especially important that the citizens of California be aware of motorcycles on the streets and highways and recognize the importance of motorcycle safety; and

WHEREAS, The safety hazards created by automobile operators who have not been educated to watch for motorcyclists on the streets and highways of California are of prime concern to motorcyclists; and

WHEREAS, The American Brotherhood Aimed Toward Education (ABATE) of California is an organization that is actively promoting the safe operation, increased rider training, and increased motorist awareness of motorcycles; and

WHEREAS, It is important to recognize the need for awareness on the part of all drivers, especially with regard to sharing the road with motorcycles, and to honor motorcyclists' many contributions to the communities in which they live and ride; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of May 2006 is hereby officially designated Motorcycle Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 102—Relative to Construction Career Awareness Day.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, The Senate of the State of California is pleased to recognize the 6th annual Construction Career Awareness Day in Northern California where every year more than one thousand pupils are provided exposure to construction-related career opportunities; and

WHEREAS, The Federal Highway Administration, California Department of Transportation (Caltrans), the Associated General Contractors of California and dozens of industry partners have successfully cultivated relationships with more than one hundred career technical education teachers, regional occupational program coordinators, school districts, and colleges spanning a seven county region in Northern California; and

WHEREAS, The State Department of Education recognizes that 84 percent of pupils who complete a sequence of career technical education courses are significantly more likely to graduate from high school; and

WHEREAS, The California Employment Development Department's occupational projections for 2002–2012 estimate nearly 360,200 positions are needed for the construction industry to address the infrastructure needs of the state; and

WHEREAS, General contracting and subcontracting companies will also make a substantial contribution of staff time and resources for the 2006 Construction Career Awareness Day in Northern California; and

WHEREAS, Encouraging pupils to explore their abilities, strengths, interests, and talents helps to provide them with direction and drive to develop career awareness; and

WHEREAS, Partnerships between private industry employers and local schools will help to further the educational, social and professional development for California's pupils; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature honors and recognizes March 29, 2006, as the 6th annual Construction Career Awareness Day in Northern California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 32

Senate Concurrent Resolution No. 103—Relative to Lyme Disease Awareness Month.

[Filed with Secretary of State April 21, 2006.]

WHEREAS, Lyme disease is caused by the spirochete (a corkscrew-shaped bacteria) called Borrelia burgdorferi and is transmitted by the western black-legged tick. Lyme disease was first identified in North America in the 1970s in Lyme, Connecticut, the town for which it was then named. This disease has since been reported in many areas of the country, including, as of 2002, 53 counties in California. Today, it has reached all 58 counties. Its spread is essentially global, having been reported in 30 countries on 6 continents and several islands. Lyme disease, therefore, is not "rare" and 25 percent of its victims are under 15 years of age; and

WHEREAS, Lyme disease mimics many other diseases and is called the second "great imitator" after syphilis. Patients are often misdiagnosed with more familiar conditions, including chronic fatigue, fibromyalgia, multiple sclerosis, amyotrophic lateral sclerosis (Lou Gehrig's disease), or Parkinson's disease, for which there is no cure, only palliative remedies. Manifestations of cognitive and memory impairment from neurological Lyme disease are commonly misdiagnosed as depression or other mental conditions; and

WHEREAS, Prompt treatment with antibiotics at the onset of Lyme disease can cure the infection and prevent complications of "persistent Lyme disease." However, if treatment is delayed, the disease will cause progressive debilitation and recovery will take much longer; and

WHEREAS, In California, the western black-legged tick (Ixodes pacificus) transmits the bacteria that cause Lyme disease during its bite and blood draw. These ticks are most common in the coastal regions and along the western slope of the Sierra Nevada range. Ticks prefer cool moist environments, such as shaded grasses, shrubs, and leaf litter under trees in oak woodlands; and

WHEREAS, Ticks have three life stages. The larvae and nymphs are found in low, moist vegetation such as in leaf litter and oak tree trunks. Adults are found on the tips of grasses and shrubs, often along trails and usually carried by deer. Infected nymphs and adult females of the western black-legged tick can transmit Lyme disease bacterium to humans. Because nymphs are tiny and difficult to see, they may not be removed promptly. Nymphs are most active in spring and early summer, when people are most likely to be outdoors. Indeed, the peak time for

contracting the disease is between April and June, hence the designation of May as Lyme Disease Awareness Month; and

WHEREAS, There are fewer than 30 "Lyme-literate" physicians in clinical practice in California, resulting in frequent misdiagnosis and undertreatment of patients. This marginalization has led to broken families, financial hardship, job loss, increased numbers of people on disability or welfare, and even death. Lyme disease is a hidden public health epidemic that must be addressed promptly; and

WHEREAS, The federal Centers for Disease Control and Prevention (CDC) made Lyme disease a nationally notifiable condition in 1982. Over 125,000 cases have since been reported nationwide, making Lyme disease the most frequently reported vector-borne disease. In 2002, the number of cases reported increased by 40 percent over the prior year to 23,763 cases. The CDC estimates that only 10 percent of the Lyme disease cases are actually reported and the current CDC outdated surveillance criteria lead to gross underreporting; and

WHEREAS, In 1999, Senate Bill 1115 established the Lyme Disease Advisory Committee (LDAC) to provide information and service to the Lyme patient community and to focus expertise and potential leadership on this public health epidemic; and

WHEREAS, In 2002, Assembly Bill 2125 established that Lyme disease could be a compensable employment injury through the workers' compensation system for certain law enforcement personnel, thus recognizing that Lyme disease could be an occupational hazard and job injury; and

WHEREAS, In 2004, the International Lyme and Associated Diseases Society developed "Evidence-based Guidelines for the Management of Lyme Disease," published in Expert Review and Anti-infective Ther.:2(1), 2004. It is now clear that long-term antibiotic treatment of persistent Lyme disease can be effective; and

WHEREAS, In 2004, Assembly Bill 1091 revised the method by which the state may modify the list of reportable diseases making Lyme disease laboratory-reportable in addition to doctor-reportable; and

WHEREAS, Most recently, in 2005 Assembly Bill 592 had a two-fold purpose: to ensure that physicians who diagnose Lyme disease based on personal examination and develop a treatment plan based on informed consent with the patient can not be charged with incompetence for this professional practice, and specifically recognizing the treatment of "persistent Lyme disease" opening a window for both physicians and patients to see that this complex disease can indeed be treated; and

WHEREAS, The Legislature finds that this disease is a developing epidemic that presents a major health threat to all Californians; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby proclaims the month of May 2006 as Lyme Disease Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 98—Relative to World Languages and Cultures Month.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, Senate Bill 5 (Chapter 826 of the Statutes of 2003), which requires the State Board of Education to adopt content standards for teaching languages in kindergarten and grades 1 to 12, inclusive, will strengthen the teaching of languages and cultures in California; and

WHEREAS, 2005 has been celebrated as the Year of Languages in the United States; and

WHEREAS, The language community is embarking on a 10-year campaign to increase public awareness in the United States of the importance of providing educational instruction in languages and cultures; and

WHEREAS, Proficiency in more than one language enhances communication and strengthens positive interactions among people in the United States and around the world; and

WHEREAS, The study of languages improves the academic and literacy skills of pupils, leading to increased levels of achievement on verbal and quantitative examinations; and

WHEREAS, The study of languages and cultures provides pupils with the opportunity to gain insight into the history, heritage, and perspectives of all California residents and of residents of other communities around the world; and

WHEREAS, The conditions of the current international economy require that people be able to interact effectively with individuals from different cultural backgrounds; and

WHEREAS, Linguistic and cultural competence is critical to the security needs of the United States; and

WHEREAS, The study of languages and cultures increases understanding of, and encourages respect for, people of different backgrounds; and

WHEREAS, During the month of May 2006, the California Language Teachers' Association, the California Foreign Language Project, and other educational organizations throughout California will sponsor special activities to promote awareness of the importance of California residents being able to interact successfully in multilingual and multicultural contexts in the United States and around the world; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the month of May 2006 as World Languages and Cultures Month, during which time the Legislature encourages all educational communities in California to celebrate languages and cultures with meaningful pupil activities and programs that demonstrate an understanding of the diversity of languages and cultures in California, and urges all residents to become interested in and give full support to quality language and cultural programs for all pupils in California schools; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 120—Relative to Financial Literacy Month.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, Californians' total personal income is 59 percent higher than the next closest state and accounts for 13 percent of all personal income in the United States; and

WHEREAS, 4.7 million Californians live below the poverty level; and

WHEREAS, In 2005, consumer bankruptcy filings numbered over 2 million, up 31.6 percent from 2004, representing the highest number of filings on record; and

WHEREAS, In 2005, Chapter 7 consumer bankruptcy filings, which provide consumers with the greatest relief of their debt, increased 47.2 percent; and

WHEREAS, The average household consumer credit debt is about $8,000; and

WHEREAS, 27 percent of baby boomers say "they are worse financial managers than their parents"; and

WHEREAS, 51 percent of those surveyed in the 2005 Retirement Conference Survey said that high expenses are preventing them from achieving their retirement savings goals; and

WHEREAS, The average amount in retirement accounts is $49,944; and

WHEREAS, The U.S. Savings rate for consumers in late 2005 was a negative 0.2 percent; and

WHEREAS, 43 percent of American households do not have retirement accounts; and

WHEREAS, Almost 70 percent of retired workers reported that they now spend the same as or more than they did when they worked; and

WHEREAS, 70 percent of retirees said they wish they had saved more during their working years and 59 percent said they should have started saving earlier; and

WHEREAS, High school seniors taking part in a national survey of financial knowledge scored an average of 52.3 percent, which is a failing grade; and

WHEREAS, Over the past five years, total annual borrowing through student loans has soared 85 percent, easily outpacing the 41 percent rise in public college costs and the 28 percent increase at private schools; and

WHEREAS, Undergraduates reported freshman year as the most prevalent time for obtaining credit cards, with 56 percent reporting having obtained their first card at 18 years of age; and

WHEREAS, Almost 24 percent of undergraduate students reported using credit cards for tuition; and

WHEREAS, Increasing the financial literacy of all economic and ethnic groups is documented to improve attitudes, lead to improved decisionmaking, and provides for a more secure future for the individuals and their families who have been educated with regard to these issues; and

WHEREAS, Financial literacy training may be easily integrated as a valuable component for elementary and secondary schools, colleges and universities, libraries, community groups, and citizen town hall meetings; and

WHEREAS, Many groups are dedicated to increasing the financial literacy of Americans and a broad range of quality personal finance instructional materials and curricula have been created for this purpose, but the audience to which this information is vital, is not being reached; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares the month of April

2006 as Financial Literacy Month, in order to raise public awareness about the need for increased financial literacy; and be it further

Resolved, That legislators, employers, schools, service groups, community organizations, libraries, financial institutions, and the media, be encouraged to provide opportunities for financial literacy education for all Californians through a variety of means, including attending the California Summit on Financial Literacy on April 26, 2006, and collaborating with members of the California Society of Certified Public Accountants, California Jump Start Coalition, and others, as they provide outreach and education; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 126—Relative to West Nile Virus and Mosquito and Vector Control Awareness Week.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, West Nile virus is a mosquito-borne disease that can result in debilitating cases of meningitis and encephalitis and death to humans, horses, avian species, and other wildlife; and

WHEREAS, In 2005, West Nile virus killed 18 people in California and sickened over 900 individuals; and

WHEREAS, The State Department of Health Services and the Centers for Disease Control predict West Nile virus again poses a grave public health threat in California in 2006; and

WHEREAS, Adequately funded mosquito and vector control, disease surveillance, and public awareness programs are the best ways to prevent outbreaks of West Nile virus and other diseases borne by mosquitoes and other vectors; and

WHEREAS, Mosquitoes and other vectors, including, but not limited to, ticks, Africanized honeybees, rats, fleas, and flies, continue to be a source of human suffering, illness, death, and a public nuisance in California and around the world; and

WHEREAS, Excess numbers of mosquitoes and other vectors spread diseases of humans, livestock, and wildlife, reduce enjoyment of public and private outdoor living spaces, reduce property values, hinder outdoor work, and reduce livestock productivity; and

WHEREAS, Mosquitoes and other vectors can disperse or be transported long distances from their sources and are, therefore, a health risk and public nuisance; and

WHEREAS, Professional mosquito and vector control based on scientific research has made great advances in reducing mosquito and vector populations and the diseases they transmit; and

WHEREAS, Mosquito and vector-borne viruses that can cause human illness or even death have been routinely found in mosquitoes and other vectors in over one-half of the counties in California; and

WHEREAS, Mosquitoes that are commonly found within California are known vectors of the West Nile virus, which has struck with deadly force throughout the United States in recent years; and

WHEREAS, Established mosquito and vector-borne diseases such as plague, Lyme disease, and encephalitis, and new and emerging vector-borne diseases such as hantavirus, arenavirus, babesiosis, and ehrlichiosis cause illness and sometimes death every year in California; and

WHEREAS, Mosquito and vector control districts throughout the State of California work closely with the United States Environmental Protection Agency and the State Department of Health Services to reduce pesticide risks to humans, animals, and the environment while protecting human health from mosquito and vector-borne diseases and nuisance attacks; and

WHEREAS, The public's awareness of the health benefits associated with safe, professionally applied mosquito and vector control methods will support these efforts, as well as motivate the public to eliminate mosquito and vector breeding sites on private property; and

WHEREAS, Educational programs have been developed to include schools, civic groups, private industry, and government agencies, in order to meet the public's need for information about West Nile virus, other diseases, and mosquito and vector biology and control; and

WHEREAS, Adequate funding for mosquito and vector control and for surveillance of vector-borne disease organisms is not being provided in many areas of the state; and

WHEREAS, Public awareness can result in reduced production of mosquitoes and other vectors on private, commercial, and public lands by responsible parties, avoidance of the bites of mosquitoes and other vectors when the risk of West Nile virus and other disease transmission is high, detection of human cases of mosquito and vector-borne diseases that may otherwise be misdiagnosed for lack of appropriate laboratory testing, and the formation of mosquito or vector control agencies where needed; and

WHEREAS, Public awareness can result in action to provide adequate funding for existing mosquito and vector control agencies or to create control agencies in areas where there are no existing controls; and

WHEREAS, "West Nile Virus and Mosquito and Vector Control Awareness Week" will increase the public's awareness of the threat of West Nile virus and other diseases and the activities of the various mosquito and vector research and control agencies working to minimize the health threat within California, and will highlight the educational programs currently available; and

WHEREAS, The Mosquito and Vector Control Association of California has designated the week of April 24 through April 30, 2006, as "West Nile Virus and Mosquito and Vector Control Awareness Week" in the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that the week of April 24 through April 30, 2006, be designated as West Nile Virus and Mosquito and Vector Control Awareness Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and the Director of Health Services.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 133—Relative to Voter Education and Participation Month.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, One of the most important civic duties of an American citizen is to express his or her voice through the democratic process; and

WHEREAS, It is the goal of the State of California to support and to increase the number of citizens who actively and consistently participate in the democratic process; and

WHEREAS, Numerous studies have shown that the higher a person's level of awareness of the electoral process, the greater is their participation in that process; and

WHEREAS, There are currently over six million Californians that are eligible to register to vote, but are not currently registered; and

WHEREAS, In the California 2002 midterm general election held on November 5, only 50.6 percent of registered voters participated in the electoral process; and

WHEREAS, The strength of a democracy is dependent on the "consent of the governed" as expressed at the ballot box; and

WHEREAS, State and local election officials currently provide voters with nonpartisan information on candidates and measures, and numerous organizations and individuals also seek to provide similar information; and

WHEREAS, Californians help educate voters through numerous outreach efforts conducted by community-based organizations, academic institutions, and political organizations; and

WHEREAS, Action must be taken in order to educate voters and encourage voter participation so that current and future generations of California voters will remain engaged in the democratic process; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims the month of April 2006 as "California Voter Education and Participation Month" and urges all eligible Californians to register to vote, make sure their family and friends are also registered, and to inform themselves about candidates and measures on the ballot and vote in the June 6, 2006, statewide primary election; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 137—Relative to Sexual Assault Awareness Month.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, In California, there were 9,598 forcible rapes reported in 2004; and

WHEREAS, The American Medical Association has stated that a "woman is raped every 46 seconds in the United States" and that sexual assault is a "silent epidemic"; and

WHEREAS, Women, children, and men are all victims of sexual assault and it is estimated that one in three women, one in four girls, one in six boys, and one in 11 men will be victims at least once in their lifetimes; and

WHEREAS, Rape and sexual assault impacts women, children, and men of all racial, cultural, and economic backgrounds; and

WHEREAS, Women, children, and men suffer multiple types of sexual violence including acquaintance rape, stranger rape, sexual assault by an intimate partner, gang rape, incest, stalking, serial rape, ritual abuse,

sexual harassment, child sexual molestation, prostitution, pornography, and stalking; and

WHEREAS, In addition to the immediate physical and emotional costs, sexual assault may also have associated severe and long-lasting consequences of post traumatic stress disorder, substance abuse, major depression, homelessness, eating disorders, and suicide; and

WHEREAS, The Centers for Disease Control and Prevention have identified sexual assault as a significant, costly, and preventable health issue; and

WHEREAS, Women, children, and men in our state have the right to be safe from sexual violence in their homes, at school, at work, and on the streets; and

WHEREAS, It is our responsibility to support rape survivors by treating them with dignity, compassion, and respect; and

WHEREAS, It is crucially important to hold perpetrators responsible for sexual attacks, and to prevent sexual violence at every opportunity; and

WHEREAS, A coalition of rape crisis centers and their allies, known as the California Coalition Against Sexual Assault, has emerged to directly confront this crisis with the cooperation of law enforcement agencies, churches, health care providers, and other helping professionals from California's diverse communities; and

WHEREAS, It is important to recognize the compassion and dedication of the individuals involved in this effort, applaud their commitment, and increase public understanding of this significant problem; and

WHEREAS, It is important to recognize the strength, courage, and challenges of the victims and survivors of sexual assault and their families and friends as they struggle to cope with the reality of sexual assault; and

WHEREAS, It is important to recognize that not all victims of sexual assault survive, either at the time of the assault or later, due to the horrific long-term trauma that sexual assault often inflicts upon victims; and

WHEREAS, There are rape prevention and education efforts underway throughout California to challenge the societal myths and behaviors that perpetuate rape and to engage communities in a common goal of ending sexual assault; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, henceforth, the month of April shall be designated as Sexual Assault Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Governor, to the Director of the United States Justice Department's Office for Victims

of Crime, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 38

Assembly Concurrent Resolution No. 141—Relative to National Donate Life Month.

[Filed with Secretary of State April 25, 2006.]

WHEREAS, Organ and tissue transplantation offers us the extraordinary opportunity to share with others one of our most precious gifts—the gift of life; and

WHEREAS, By donating tissues and organs, living donors and the families who have lost loved ones are rewarded with the knowledge that they have saved and enhanced many lives; and

WHEREAS, Thanks to the generosity and compassion of donors, transplant recipients across our country are able to work, care for their families, and look forward to a brighter future; and

WHEREAS, Statistics show that approximately 60 Americans receive a transplant every day, however, at the same time, another 17 people die because not enough organs are available; and

WHEREAS, There are more than 91,000 patients waiting for an organ transplant and another person joins the waiting list every 13 minutes; and

WHEREAS, According to the United Network of Organ Sharing (UNOS), in 2004 there were 14,156 deceased and living organ donors, 27,037 lifesaving organ transplants, 89,000 registrations on the waiting list at the end of the year, and 6,639 who died while waiting; and

WHEREAS, According to Patricia Adams, M.D., the President of UNOS, "We have the know-how to save tens of thousands of lives. What we don't have is enough donated organs to make it possible"; and

WHEREAS, Minorities make up 50 percent of the waiting list, with 27 percent African-American, 15 percent Hispanic, 5 percent Asian, and 2 percent identified as other, while only 25 percent of all organ donors are minorities; and

WHEREAS, Each person who decides to become an organ donor has the potential of saving eight lives and enhancing up to 50 lives; and

WHEREAS, Approximately 19,000 Californians need organ transplants, and thousands more need tissue transplants; and

WHEREAS, The future of thousands of Americans awaiting transplants depends on the willingness of their fellow citizens to become organ and tissue donors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims April 2006 as, and expresses its support for, National Donate Life Month, urges every Californian to consider becoming a donor, which consists of signing up on the statewide registry through its Web site at www.donatelifecalifornia.org, and notifying their family and friends of their wish to donate, and encourages organ and tissue recipients to tell others how their lives and health have changed because of the generosity of a donor; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 39

Senate Concurrent Resolution No. 53—Relative to the Mark C. Salvaggio Interchange.

[Filed with Secretary of State April 26, 2006.]

WHEREAS, Mark C. Salvaggio is a native Californian and received his education in this state, having graduated from California State University, Bakersfield in 1972; and

WHEREAS, After obtaining his teaching credential, Mark C. Salvaggio taught seventh and eighth grade students in the Arvin Union School District for more than 30 years, from 1972 until his retirement in 2004; and

WHEREAS, Mark C. Salvaggio was a distinguished member of the Bakersfield City Council, representing Ward 7 for nearly 20 years, from 1985 to 2004; and

WHEREAS, During his tenure on the Bakersfield City Council, Mark C. Salvaggio served as Vice Mayor from December 2000 to December 2002, and as a council member was instrumental in numerous projects that benefitted the community, including the Kern River Parkway Plan, construction of the Northeast Bakersfield Water Treatment Plant, the extension of the Bakersfield Bike Path, the establishment of the Bakersfield Educational Studies Area, and the enhancement of the White Lane-State Highway Route 99 Interchange in Bakersfield; and

WHEREAS, Mark C. Salvaggio has received numerous awards and commendations for his community service, and it would be a fitting tribute to that service to name the interchange where State Highway

Route 99 connects with White Lane in Bakersfield the Mark C. Salvaggio Interchange; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the interchange where State Highway Route 99 connects with White Lane in Bakersfield be officially named the Mark C. Salvaggio Interchange; and be it further

Resolved, That the Department of Transportation determine the cost of appropriate signs consistent with the signing requirements for the state highway system showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 40

Senate Joint Resolution No. 27—Relative to Equal Pay Day.

[Filed with Secretary of State April 26, 2006.]

WHEREAS, More than 40 years after the passage of the Federal Equal Pay Act of 1963 and the passage of Title VII of the Federal Civil Rights Act of 1964, American women continue to suffer disparities in wages that cannot be accounted for by age, education, or work experience; and

WHEREAS, According to statistics released in 2004 by the U.S. Census Bureau, year-round, full-time working women in 2003 earned only 76 percent of the earnings of year-round, full-time working men, indicating little change or progress in pay equity; and

WHEREAS, A General Accounting Office report on women's earnings shows that there exists an inexplicable wage gap of approximately 20 percent between men and women, even after taking into account work experience, education, occupation, industry of current employment, and other demographic and job characteristics; and

WHEREAS, In the 43 years since the passage of the Equal Pay Act, the gap has narrowed by less than half, from 41 cents per dollar to 22 cents, and research by the Institute for Women's Policy Research finds that recent change is due in large part to men's real wages falling, not women's wages rising; and

WHEREAS, California ranks fifth among all states in equal pay, yet it ranks 39th among all states in progress in closing the hourly wage gap,

and at the current rate of change California working women will not have equal pay for another 40 years; and

WHEREAS, The consequences of the wage gap reach beyond working women and extend to their families and the economy to the extent that, in 1999, even after accounting for differences in education, age, location, and the number of hours worked, America's working families lost $200 billion of annual income to the wage gap, with an average of $4,000 per family; and

WHEREAS, Women play a crucial role in maintaining the financial well-being of their families by providing a significant percentage of their household incomes and, in many cases, women head their own households; and

WHEREAS, Pay inequity results in a higher poverty rate for women, particularly in women-headed households, as evidenced by figures from the McAuley Institute, which indicate that for families that are headed by a woman and have children under five years of age, the poverty rate is an astonishing 46.4 percent; and

WHEREAS, Educated women are not exempt from pay disparity; and

WHEREAS, In 2001 the average income for a woman with a bachelor's degree was 24 percent lower than that of a man with the same level of education—$32,238 versus $42,292; and

WHEREAS, The average 25-year-old working woman will lose about $455,000 to unequal pay during her working life; and

WHEREAS, The wage gap is even wider for women of color, as evidenced by a 2001 statistic that reported that African-American women earned 70 percent and Hispanic women earned 58 percent of average white male earnings; and

WHEREAS, The wage gap is also prevalent within minority communities, as shown by a 2002 report that African-American women earned 91 percent of what African-American men earned, and Hispanic women earned 88 percent of what Hispanic men earned; and

WHEREAS, Even in professions in which women comprise a majority of workers, such as nursing and teaching, men earn an average of 20 percent more than women working in these same occupations; and

WHEREAS, According to the data analysis of over 300 job classifications provided by the United States Department of Labor, Bureau of Labor Statistics, women are paid less in every occupational classification for which sufficient information is available; and

WHEREAS, The average 25-year-old woman who works full time, year round, is projected to earn $523,000 less over the course of her career than the average 25-year-old man who works full time, year round; and

WHEREAS, If women were paid the same as men who work the same number of hours, have the same education and same union status, are the same age, and live in the same region of the country, then the annual family income of each of these women would rise by $4,000, and the number of families who live below the poverty line would be reduced by half; and

WHEREAS, The wage gap continues to affect women in their senior years as lower wages result in lower pensions and incomes after retirement, and affect a woman's ability to save, thereby contributing to a higher poverty rate for elderly women; and

WHEREAS, Half of all older women with income from a private pension receive less than $5,600 per year, as compared with $10,340 per year for older men; and

WHEREAS, Men live an average of 77 years and women live an average of 81.7 years; and

WHEREAS, Assuming men and women retire at age 65, men will rely on their state pensions to help them through 12 years of life, while a woman's pension will have to last 16.7 years; and

WHEREAS, There is a greater likelihood that a female worker would outlive her defined contribution plan; and

WHEREAS, It is estimated that it would cost a man $654,000 to purchase an annuity based on 25 years of service and a $6,000 final-month salary, while it would cost a woman over $700,000 to purchase the same annuity with the same monthly benefits; and

WHEREAS, If both a man and a woman invested $750,000 in this same annuity, it is estimated the woman would receive a little under $3,420 per month while the man would receive $3,670, or a 7-percent difference; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature hereby declares April 25, 2006, to be "Equal Pay Day" in California and urges California citizens to recognize the full value and worth of women and their contributions to the California workforce; and be it further

Resolved, That the Legislature respectfully urges the Congress of the United States to protect the fundamental right of all American women to receive equal pay for equal work, and to continue to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of

the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 76—Relative to Breast Cancer Awareness and Prevention Month.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, According to the American Cancer Society, with the exception of skin cancer, breast cancer is the most commonly diagnosed cancer among American women; and

WHEREAS, Breast cancer is second only to lung cancer as the leading cause of cancer-related deaths among women; and

WHEREAS, Approximately 21,600 women and 150 men are diagnosed with breast cancer in California each year — and of that number approximately 4,200 women and 35 men die of the disease; and

WHEREAS, The number of women who die of breast cancer each year in California constitutes one-tenth of the number of women to die of breast cancer in the United States; and

WHEREAS, The chance of a woman having invasive breast cancer in her lifetime is about 1 in 7, and the chance of dying from breast cancer is about 1 in 33; and

WHEREAS, The risk of getting breast cancer increases with age; and

WHEREAS, Earlier detection of breast cancer through mammography and self-examination increases chances of successful treatment; and

WHEREAS, With early detection and proper treatment, the five-year relative survival rate for breast cancer has increased from 72 percent in the 1940s to 97 percent today; however, once the cancer spreads beyond the breast, the survival rate drops to a mere 23 percent even with modern treatments and technologies; and

WHEREAS, Women in their 20s and 30s should have a clinical breast examination (CBE) as part of a regular examination by a health expert, preferably every three years, and women over 40 years of age should have a breast examination by a health expert every year; and

WHEREAS, Mammography is the single most effective method of detecting breast changes that may be cancer, long before physical symptoms, detectable lumps, or abnormalities can be felt; and

WHEREAS, It is in the best interest of all Californians to join this continuing battle against breast cancer by promoting greater awareness of the need for early detection, appropriate treatment, and the importance

of finding a cure—as well as a means of prevention; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of October 2006 is hereby declared "Breast Cancer Awareness and Prevention Month" in California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 42

Senate Concurrent Resolution No. 77—Relative to Lymphedema Awareness Day.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, Lymphedema is a serious chronic disease that plagues thousands of Californians who are either born with the condition, or who develop it as a result of trauma, surgical insult, radiation therapy, or a combination of these factors; and

WHEREAS, Ninety percent of Lymphedema cases are the result of trauma or medical treatment; and

WHEREAS, The remaining 10 percent result from congenital defects of the lymph system; and

WHEREAS, Several thousand Californians will be put at risk or will develop Lymphedema each year as a consequence of cancer treatment, surgical insult, or physical trauma; and

WHEREAS, Lymphedema is the chronic accumulation of fluid in an affected limb, trunk, breast, or face; and

WHEREAS, Without professional treatment and self-care this accumulation results in the gross distention of the lymph-filled body part and chronic infections that can become life-threatening lacking prompt treatment; and

WHEREAS, Lymphedema often leaves its victims disfigured, as well as physically and emotionally disabled; and

WHEREAS, Many Lymphedema patients are breast cancer survivors who have undergone surgery, lymph node removal, often in combination with subsequent radiation therapy. However, similar treatments for colon cancer, melanoma, and uterine, ovarian, and cervical cancer can also cause Lymphedema; and

WHEREAS, This condition is often ignored or trivialized by many in the medical community because it is incurable and requires lifetime

surveillance and treatment that may not always be known by the medical professional; and

WHEREAS, Persons at risk for Lymphedema must apply a regimen of self-care to prevent or delay the onset of symptoms that is nearly as rigorous as self-care requirements for patients already afflicted with Lymphedema; and

WHEREAS, Despite the fact that Lymphedema's presence appears to be increasing, particularly with reference to treatment-induced Lymphedema, much of the medical community fails to acknowledge the need for prompt and timely diagnoses and treatment; and

WHEREAS, At present, many persons are denied coverage for Lymphedema because their health care plans do not recognize Lymphedema as an incurable disease; and

WHEREAS, Instead, it is treated as a physical disability that requires rehabilitation rather than treatment; and

WHEREAS, The cost of medically necessary bandages and compression garments is passed on to the patient because these necessities are termed "durable medical equipment"; and

WHEREAS, Many Lymphedema patients are denied reimbursement for their paraphernalia without which uncontrolled swelling and life-threatening infections may occur; and

WHEREAS, Timely diagnosis and treatment is often not available to patients, particularly those in rural areas, making Lymphedema more difficult to manage with more negative health consequences due delays in diagnosing and treating the condition; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature declares March 6, 2006, to be Lymphedema Awareness Day; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 43

Senate Concurrent Resolution No. 79—Relative to Crime Victims' Rights Week.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, Violent crime continues to exist in California and crime in one part of the state, or against one person, affects out entire sense of well-being; and

WHEREAS, All Californians are affected by crime, not just the victims of violent crime; and

WHEREAS, The most effective aid that can be provided to victims of crime is to prevent crime from taking place in the first place; and

WHEREAS, The National Crime Victims' Rights Week is celebrating its anniversary from April 23 through April 29, 2006; and

WHEREAS, For the 25 years since 1981, National Crime Victims' Rights Week has raised awareness of the special needs of crime victims; and

WHEREAS, The theme for the 2006 National Crime Victims' Rights Week is "Victims Rights: Strength in Unity"; and

WHEREAS, The respect and protection of victims' rights within the legal process is one of the most critical components of an effective criminal justice system; and

WHEREAS, Victims and witnesses of crime require special attention to ensure that they are thoroughly informed about, and participate effectively in, the criminal justice system; and

WHEREAS, To the maximum extent allowed by law, victims of violent crime should receive compensation for their losses; and

WHEREAS, Each day, thousands of victims and witnesses receive assistance from victim support organizations, victim-witness assistance centers, private service providers, and state and local governments; and

WHEREAS, The criminal justice system in this state must persist in its effort to better coordinate and improve the quality of services provided to victims and witnesses; and

WHEREAS, California has been a pioneer in victims' rights and is observing the 41st anniversary of California's Victim Compensation Program, the first, oldest, and largest in the nation; and

WHEREAS, Since 1965, California has awarded over $1 billion to help crime victims; and

WHEREAS, California citizens enshrined victims' rights in the California Constitution in 1982 through the passage of Proposition 8, the Crime Victims' Bill of Rights; and

WHEREAS, Each year, the observance of the National Crime Victims' Rights Week focuses on the problems confronting victims of crime and the services available to support these victims; and

WHEREAS, The remembrances observed during National Crime Victims' Rights Week promote awareness of victim issues and acknowledge the combined efforts of citizens, government, and the criminal justice system to improve victims' services in California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the week of April 23 through April 29, 2006, be recognized as Crime Victims' Rights Week in California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 44

Senate Concurrent Resolution No. 81—Relative to Asthma Awareness Month.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, Over two million Californians suffer from asthma, and the illness is responsible for approximately 40,000 hospitalizations and 600 deaths annually in California; and

WHEREAS, An estimated 11.9 percent of Californians, or 3.9 million adults and children, have been diagnosed with asthma; and

WHEREAS, Asthma disproportionately affects children and young adults and, in California, its prevalence is highest among children who are 12 to 17 years of age; and

WHEREAS, The self-reported lifetime occurrence of asthma has increased 66 percent in the last 20 years in California; and

WHEREAS, Women experience asthma at a much higher rate than men, African-Americans in California are three times more likely than Caucasians to be hospitalized due to asthma, and rates of hospitalization due to asthma among Hispanic and Asian children in California have been increasing; and

WHEREAS, The effects of asthma include missed school and work days, disruption of sleep and daily activities, emergency medical visits for asthma exacerbation, and even death; and

WHEREAS, The direct and indirect costs of asthma in California were estimated to be $1.27 billion in 1998, with hospitalizations representing the largest direct medical expense related to asthma in 2000 and the average cost per hospitalization equaling $13,000; and

WHEREAS, Because the majority of hospitalizations from asthma are thought to be preventable, the portion of the $1.27 billion in total costs that is associated with these hospitalizations is likely to be preventable as well; and

WHEREAS, It is important that every person with asthma be diagnosed, receive appropriate treatment, learn how to manage his or

her asthma, and reduce exposure to environmental factors that make his or her asthma worse; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the month of May 2006 as Asthma Awareness Month in order to increase awareness and understanding about asthma and educate those with the disease on the treatments available and the methods of preventing attacks; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 45

Senate Concurrent Resolution No. 83—Relative to recognizing May 2006 as Asian and Pacific Islander American Heritage Month.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, The earliest Asian Americans immigrated to the United States in the 1800s; and

WHEREAS, Asian and Pacific Islander Americans have played a critical role in the social, economic, and political development of California throughout its history; and

WHEREAS, The 4.22 million Asian and Pacific Islander Americans in California are one of the fastest growing ethnic populations in the state; and

WHEREAS, Asian and Pacific Islander Americans represent over 12 percent of California's population and represent ancestries that include Burmese, Cambodian, Chinese, East Indian, Filipino, Guamanian, Hawaiian, Hmong, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Singaporean, Thai, Tongan, and Vietnamese; and

WHEREAS, Asian and Pacific Islander American entrepreneurs have led many of California's businesses to the pinnacle of their respective industries; and

WHEREAS, Asian and Pacific Islander American communities throughout California actively promote their cultural heritage and promote cross-cultural understanding; and

WHEREAS, Asian and Pacific Islander Americans will continue to be an important part of California's diverse tapestry of cultures and ideas; and

WHEREAS, Asian and Pacific Islander American immigrants have contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, Asian and Pacific Islander American refugees have revitalized many of California's communities, while bringing in new ideas and economic opportunities; and

WHEREAS, Asian and Pacific Islander American immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families; and

WHEREAS, Asian and Pacific Islander Americans have a proud legacy of service and dedication to the state and to the United States; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature commends Asian and Pacific Islander Americans for their notable accomplishments and outstanding service to the state, and recognizes the month of May 2006 as Asian and Pacific Islander American Heritage Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 105—Relative to California Fitness Month.

[Filed with Secretary of State April 28, 2006.]

WHEREAS, Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart and muscles, burn calories, and improve cholesterol levels; and

WHEREAS, Exercise and fitness activities are excellent ways to relieve stress, lower the risk of heart disease and diabetes, prevent bone loss, and decrease the risk of some cancers; and

WHEREAS, A person's fitness level has a dramatic effect on the body's ability to produce energy and to reduce fat; and

WHEREAS, A fit person burns a higher percentage of fat not only during activity, but also at rest, fit people have a higher proportion of muscle tissue, which burns more calories than fat, and those with more muscle mass can eat more calories and still maintain a healthy weight; and

WHEREAS, To lose weight and keep it off, one should do an enjoyable, moderate-intensity aerobic activity for 30 to 60 minutes, three to five times a week; and

WHEREAS, A person should also do muscle-strengthening exercises two or three times a week, and should concentrate on maintaining a balanced diet; and

WHEREAS, Most popular diet programs cannot produce long-lasting weight reduction results without exercise; and

WHEREAS, There is no age limit for physical activity. Among the elderly, exercise provides cardiovascular, respiratory, neuromuscular, metabolic, and mental health benefits; and

WHEREAS, Fitness activities have been shown to sharpen mental ability in all people, and to retard the aging process; and

WHEREAS, Maximizing one's energy level, increasing muscle mass, and reducing body fat increases one's chances of living a longer, healthier life; and

WHEREAS, More than 60 percent of American adults do not get the recommended amount of physical activity, and 25 percent of American adults are not active; and

WHEREAS, Nearly all American youths from 12 to 21 years of age are not vigorously active on a regular basis; and

WHEREAS, The rate of Type II diabetes tripled among American children from 2000 to 2005; and

WHEREAS, The United States Surgeon General recently spoke about the "cultural transformation" necessary to reverse the negative health effects of childhood obesity, and the threat to national security that obesity poses for the country; and

WHEREAS, The State Department of Education reports that a majority of California's children are not physically fit; and

WHEREAS, Along with California Fitness Month, the American Heart Association has declared May 2006 as Stroke Awareness Month, and will be collaborating in engaging Californians in fitness and health related activities; and

WHEREAS, Health care providers, insurance companies, fitness clubs, and others in the private sector will be collaborating to promote fit living and health improvement activities during May of 2006; and

WHEREAS, The California Bicycle Coalition and numerous local organizations are coordinating public awareness events to promote Bike-to-Work Week, which takes place from May 15 to May 19, 2006; and

WHEREAS, The Legislature seeks to advance the physical fitness of all Californians by educating them about the benefits of exercise and a balanced diet; and

WHEREAS, The Legislature will increase public awareness about the benefits of exercise and physical fitness by encouraging its Members to host events in their districts that stimulate physical fitness and increase participation by Californians in activities that promote physical health and benefit both mental and physical well-being; and

WHEREAS, The Legislature encourages its Members, as well as organizations, businesses, and individuals, to sponsor and attend physical fitness events that are informative, fun, and result in a number of Californians becoming physically fit; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the month of May 2006 as California Fitness Month, and encourages all Californians to enrich their lives through proper diet and exercise; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 47

Assembly Joint Resolution No. 42—Relative to the Armenian Genocide.

[Filed with Secretary of State May 1, 2006.]

WHEREAS, The Armenian people, living in their 3,000 year historic homeland in eastern Asia Minor and throughout the Ottoman Empire, were subjected to severe persecution and brutal injustice by the rulers of the Ottoman Empire before and after the turn of the 20th century, including widespread massacres, usurpation of land and property, and acts of wanton destruction during the period from 1894 to 1896, and again in 1909; and

WHEREAS, The horrible experience of the Armenians at the hands of their oppressors culminated in 1915 in what is known by historians as the "First Genocide of the Twentieth Century," and as the prototype of modern-day mass killing; and

WHEREAS, The Armenian Genocide began with the arrest, exile, and murder of hundreds of Armenian intellectuals, and business, political, and religious leaders, starting on April 24, 1915; and

WHEREAS, The regime then in control of the empire, known as the "Young Turks," planned and executed the unspeakable atrocities committed against the Armenian people from 1915 through 1923, which included the torture, starvation, and murder of 1,500,000 Armenians, death marches into the Syrian desert, the forced exile of more than

500,000 innocent people, and the loss of the traditional Armenian homelands; and

WHEREAS, While there were some Turks and others who jeopardized their safety in order to protect Armenians from the crimes being perpetrated by the Young Turk regime, the genocide of the Armenian people constituted one of the most egregious violations of human rights in the history of the world; and

WHEREAS, The United States Ambassador to the Ottoman Empire, Henry Morgenthau, Sr., stated "Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The killing of the Armenian people was accompanied by the systematic destruction of churches, schools, libraries, treasures of art, and cultural monuments in an attempt to eliminate all traces of a noble civilization with a history of more than 3,000 years"; and

WHEREAS, Winston Churchill wrote: "As for Turkish atrocities: ... massacring uncounted thousands of helpless Armenians, men, women, and children together, whole districts blotted out in one administrative holocaust—these were beyond human redress"; and

WHEREAS, Contemporary newspapers like the New York Times commonly carried headlines such as "Tales of Armenian Horrors Confirmed," "Million Armenians Killed or in Exile," and "Wholesale Massacre of Armenians by Turks"; and

WHEREAS, Adolph Hitler, in persuading his army commanders on the eve of World War II that the merciless persecution and killing of Poles, Jews, and other peoples would bring no retribution, declared, "Who, after all, speaks today of the annihilation of the Armenians"; and

WHEREAS, Unlike other peoples and governments that have admitted and denounced the abuses and crimes of predecessor regimes, and despite the overwhelming weight of evidence, the Republic of Turkey has inexplicably and adamantly denied the occurrence of the crimes against humanity committed by the Young Turk rulers, and those denials compound the grief of the few remaining survivors of the atrocities, desecrate the memory of the victims, and cause continuing trauma and pain to the descendants of the victims; and

WHEREAS, Nations that have officially recognized the Armenian Genocide have been subjected to retaliation and condemnation by Turkey; and

WHEREAS, There have been concerted efforts to revise history through the dissemination of propaganda suggesting that Armenians were responsible for their fate in the period from 1915 through 1923 and by the funding of programs at American educational institutions for the purpose of furthering the cause of this revisionism; and

WHEREAS, Leaders of nations with strategic, commercial, and cultural ties to the Republic of Turkey should be reminded of their duty to encourage Turkish officials to desist from efforts to distort facts and deny the history of events surrounding the Armenian Genocide; and

WHEREAS, The accelerated level and scope of denial and revisionism, coupled with the passage of time and the fact that few survivors remain who serve as reminders of indescribable brutality and torment, compel a sense of urgency in efforts to solidify recognition and reaffirmation of historical truth; and

WHEREAS, By honoring the survivors and consistently remembering and forcefully condemning the atrocities committed against the Armenian people as well as the persecution of the Assyrian and Greek populations of the Ottoman Empire, we guard against repetition of the crime of genocide; and

WHEREAS, California has become home to the largest population of Armenians in the United States, and those citizens have enriched our state through leadership in the fields of academia, medicine, business, agriculture, government, and the arts and are proud and patriotic practitioners of American citizenship; and

WHEREAS, The State of California has been at the forefront in encouraging and promoting a curriculum relating to human rights and genocide in order to empower future generations to prevent recurrence of the crime of genocide; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby designates April 24, 2006, as the "California Day of Remembrance for the Armenian Genocide of 1915–1923"; and be it further

Resolved, That the State of California commends its conscientious educators who teach about human rights and genocide; and be it further

Resolved, That the State of California respectfully memorializes the Congress of the United States to act likewise to commemorate the Armenian Genocide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, Members of the United States Congress, and the Governor.

RESOLUTION CHAPTER 48

Assembly Concurrent Resolution No. 100—Relative to California Holocaust Remembrance Week.

[Filed with Secretary of State May 2, 2006.]

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, More than 60 years have passed since the tragic events we now call the Holocaust transpired, in which the dictatorship of Nazi Germany murdered six million Jews as part of a systematic program of genocide known as "The Final Solution of the Jewish Question"; and

WHEREAS, Jews were the primary victims, but they were not alone. Five million others were murdered in Nazi concentration camps as part of a carefully orchestrated, state-sponsored program of cultural, social, and political annihilation under Nazi tyranny; and

WHEREAS, We must teach our children and future generations that the individual and communal acts of heroism during the Holocaust serve as a powerful example of how our nation and its citizens can, and must, respond to acts of hatred and inhumanity; and

WHEREAS, We must always remind ourselves of the horrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny lest these atrocities be repeated; and

WHEREAS, We, the people of California, should actively rededicate ourselves to the principles of human rights, individual freedom, and equal protection under the laws of a just and democratic society; and

WHEREAS, Each person in California should set aside moments of his or her time every year to give remembrance to those who lost their lives in the Holocaust; and

WHEREAS, The United States Holocaust Memorial Council has designated the time period of April 24 through April 30, 2006, as the Days of Remembrance of the Victims of the Holocaust, including the International Day of Remembrance, known as Yom HaShoah, on April 24, 2006; and

WHEREAS, According to Elie Wiesel, a Holocaust survivor and nationally recognized scholar, "... a memorial unresponsive to the future would violate the memory of the past"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the time period of April 24 through April 30, 2006, be proclaimed "California Holocaust Memorial Week," and that Californians are urged to observe these days of remembrance for victims of the Holocaust in an appropriate manner; and be it further

Resolved, That the Chief Clerk of the Assembly transmit sufficient copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 49

Senate Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIX B thereof, relating to transportation.

[Filed with Secretary of State May 9, 2006.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2005–06 Regular Session commencing on the sixth day of December 2004, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 1 of Article XIX B thereof is amended to read:

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:

(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.

(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.

(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.

(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other

unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

(f) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

RESOLUTION CHAPTER 50

Senate Concurrent Resolution No. 55—Relative to the Paul H. Pino Memorial Highway.

[Filed with Secretary of State May 9, 2006.]

WHEREAS, The calling to be a peace officer is one of the highest vocations of public service and any individual who accepts this calling is worthy of the highest respect and honor the community, state, and nation can provide; and

WHEREAS, California Highway Patrol Officer Paul H. Pino, Badge Number 9735, was killed in the line of duty during the morning of December 30, 2003. Paul H. Pino was issuing a citation on State Highway Route 395 south of Olancha in the County of Inyo when an impaired driver collided with his patrol vehicle; and

WHEREAS, Paul H. Pino succumbed to his injuries as a result of the collision; and

WHEREAS, Paul H. Pino was born on August 26, 1955, in The Hague, Holland. He emigrated to the United States in 1960 and settled in Carson, California. Paul H. Pino attended and graduated from Carson High School in 1973; and

WHEREAS, Prior to beginning his career with the California Highway Patrol, Paul H. Pino graduated from Los Angeles Harbor College with a degree in Police Science in 1977; and

WHEREAS, Paul H. Pino joined the Los Angeles County Sheriff's Department as a Deputy Sheriff in 1977 and served in that capacity for three years; and

WHEREAS, Paul H. Pino joined the California Highway Patrol on August 25, 1980. After successfully completing his academy training, he reported to the South Los Angeles area as an officer on January 8, 1981; and

WHEREAS, Paul H. Pino made significant contributions to traffic safety and assisting the motoring public while assigned to the South Los Angeles, Barstow, and Bishop area offices; and

WHEREAS, Paul H. Pino served 23 years as a sworn peace officer for the California Highway Patrol and was known by his fellow officers for his dedication to the department and to the protection of the citizens of our state; and

WHEREAS, Paul H. Pino is survived by his wife, Carol, daughters Patricia, Jennifer, Elizabeth, and Alexandra, mother Maria, brothers Robert, Jack and Mike, and many beloved family members and friends; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the portion of State Highway Route 395 from the junction with State Highway Route 190 to Gill Station Coso Road in the County of Inyo as the Paul H. Pino Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 66—Relative to Historic Alternate U.S. Highway Route 40.

[Filed with Secretary of State May 18, 2006.]

WHEREAS, Former Alternate U.S. Highway Route 40 played an important part in the development of the transportation routes into California over what is now known as the Davis "Y;" and

WHEREAS, What historically was Alternate U.S. Highway Route 40 is currently State Highway Route 113 from Davis to Woodland and Yuba City, and State Highway Route 70 through Marysville, Oroville, and the Feather River Canyon to Hallelujah Junction on U.S. Highway Route 395, a route that today serves 27 towns and the six Counties of Yolo, Sutter, Yuba, Butte, Plumas, and Lassen; and

WHEREAS, The Feather River Scenic Byway is a 130-mile segment of State Highway Route 70, which was part of Alternate U.S. Highway Route 40; and

WHEREAS, Alternate U.S. Highway Route 40 served as part of the Atlantic City to San Francisco transcontinental federal highway system in 1927; and

WHEREAS, The historic Alternate U. S. Highway Route 40 was parallel to and part of former U.S. Highway Route 40; and

WHEREAS, Recognition of this historic highway will educate the public concerning California's development and foster the economic health of small communities and businesses located along the highway; and

WHEREAS, The Historic U.S. 40 Association has worked to identify the historic U. S. Highway Route 40 and the Alternate U.S. Highway Route 40 routes and acts as the host organization to promote the highways, working with state, county, and city transportation departments; and

WHEREAS, It is appropriate to designate historic sections of former Alternate U.S. Highway Route 40 as an historic route; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the remaining sections of former Alternate U.S. Highway Route 40 are hereby recognized for their historic importance to the development of California's highway system; and be it further

Resolved, That the Department of Transportation is requested, upon application by an appropriate local governmental agency, to identify any section of former Alternate U.S. Highway Route 40 that is still a publicly maintained highway and that is of interest to the applicant, and to

designate that segment of highway as "Historic Alternate U.S. Highway Route 40;" and be it further

Resolved, That the department is requested to determine the cost of appropriate highway markers or signs for Historic Alternate U.S. Highway Route 40 consistent with historic signing requirements for the state highway system showing the special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs on the portions of former Alternate U.S. Highway Route 40 that are currently part of the state highway system; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 94—Relative to Cinco de Mayo Week.

[Filed with Secretary of State May 18, 2006.]

WHEREAS, Cinco de Mayo, or the fifth of May, is memorialized as a significant date in the history of California and Mexico in recognition of the courage of the Mexican people, who defeated a better trained and equipped army at the "Batalla de Puebla"; and

WHEREAS, Cinco de Mayo serves to remind us that the foundation of any nation and our state is in its people, in their spirit and courage in the face of adversity, in the strength of their drive to achieve self-determination, and in their willingness to sacrifice even life itself in the pursuit of freedom and liberty; and

WHEREAS, Cinco de Mayo offers an opportunity to reflect on the courage and achievements not only of the Mexican forces at Puebla, but also on the courage and achievements of Latinos here in California; and

WHEREAS, Achievements by Latinos in America and California include contributions to all facets of our community; and

WHEREAS, Latino voters continue to go to the polls in record numbers and influence the entrance of newly elected Latino public officials in both the Democratic and Republican parties and issues ranging from affordable housing, investing in our children, ensuring that higher education is affordable and accessible, creating good paying jobs for working families, and improving the overall quality of life for all Californians; and

WHEREAS, California's Latinos have contributed to our culture and society through their many achievements in music, food, dance, poetry,

literature, architecture, entertainment, sports, and across a broad spectrum of artistic expression; and

WHEREAS, In 2001, the Latino Caucus saw a need to recognize and honor distinguished Latinos for their contributions and dedication to California and the United State's economy and cultural life with the annual Latino Spirit Awards. These recipients are outstanding individuals who have greatly contributed to the wonderful music, poetry, literature, journalism and entertainment of California, the United States and the world; and

WHEREAS, Latinos in California have challenged the frontiers of social and economic justice, thereby improving the working conditions and lives of countless Californians; and

WHEREAS, Latino entrepreneurs in the United States are the fastest growing group of business owners in our economy; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges all Californians to join in celebrating Cinco de Mayo, the historic day to honor the valiant spirit of the brave Mexicanos who defended the town of Puebla against the French invaders, to honor the Mexican Americans of today who have fought, died, and lived to protect the freedom of the United States; and be it further

Resolved, That the Legislature declares April 30 through May 6, 2006, as Cinco de Mayo Week; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 139—Relative to NASCAR.

[Filed with Secretary of State May 23, 2006.]

WHEREAS, California is home to the California Speedway, host of two 2006 NASCAR Nextel Cup races; and

WHEREAS, May 19, 2006, is the third annual NASCAR Day, a one-day celebration of NASCAR spirit; and

WHEREAS, The mission of NASCAR Day is to encourage individuals and corporations involved in NASCAR to join together to support the NASCAR Foundation; and

WHEREAS, The NASCAR Foundation was formed to support a wide range of charitable initiatives that reflect the core values of the entire NASCAR family; and

WHEREAS, On NASCAR Day, fans are encouraged to wear their NASCAR Day lapel pin to show their support; and

WHEREAS, NASCAR Day is an opportunity for fans to show their support for the sport, and help charities related to NASCAR drivers, teams, and tracks; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature declares May 19, 2006, as NASCAR Day for the State of California, and encourages fans to wear their NASCAR Day lapel pin to show their support; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 54

Senate Concurrent Resolution No. 84—Relative to Older Americans Month.

[Filed with Secretary of State May 24, 2006.]

WHEREAS, Older Americans are among our greatest treasures, providing invaluable links to the past, and wise counsel for the future; and

WHEREAS, The gift of longevity will ensure that today's and tomorrow's seniors will continue to make significant contributions to our families by giving of themselves freely and by sharing their wisdom and experience; and

WHEREAS, It is important to acknowledge the contributions that older individuals have made to our economic well-being, in our communities, and in the workplace, through civic leadership and mentoring; and

WHEREAS, The seniors of tomorrow will be increasingly multicultural and multigenerational, as well as more diverse socially, ethnically, and economically than past generations; and

WHEREAS, An expanding elder population will profoundly impact every facet of our lives, including redefining our ideas of work, retirement, and leisure, altering our housing and living arrangements, challenging our health care systems, reshaping our economy, and altering social and public policy; and

WHEREAS, The opportunities and challenges that await as this new chapter in human history begins requires continued commitment to the goal of ensuring that our senior citizens enjoy active, productive, and healthy lives, and do so independently, safely, and with dignity for as long as they choose; and

WHEREAS, It is appropriate that the State of California join the nation and designate the month of May as a time to celebrate the contributions of older Americans and to rededicate our efforts to better serve American elders; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes May 2006 as Older Americans Month; and be it further

Resolved, That the Legislature encourages all Californians to honor elder adults during this month and this year, and to promote and participate in activities and services that contribute to the health, welfare, and independence of our older citizens; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 55

Senate Concurrent Resolution No. 85—Relative to American Stroke Month.

[Filed with Secretary of State May 24, 2006.]

WHEREAS, On average, someone in the United States has a stroke every 45 seconds; and

WHEREAS, On average, every three minutes someone in the United States dies of a stroke; and

WHEREAS, Stroke is the third leading cause of death in the United States, striking approximately 700,000 Americans each year; and

WHEREAS, Stroke leads to the deaths of more that 18,000 Californians each year; and

WHEREAS, In 2005, the estimated direct and indirect costs attributable to stroke in the United States exceeded $56.8 billion; and

WHEREAS, The majority of Americans are unaware of their risk factors for a stroke, nor are they aware of the signs and symptoms of an impending stroke; and

WHEREAS, Warning signs of stroke include sudden numbness or weakness of the face, arm, or leg, especially on one side of the body, sudden confusion, trouble speaking or understanding, sudden trouble

seeing in one or both eyes, sudden trouble walking, dizziness, loss of balance or coordination, and sudden severe headache with no known cause; and

WHEREAS, The American Stroke Association, a division of the American Heart Association, strives to reduce disability and death from stroke through research, education, fundraising, and advocacy; and

WHEREAS, The American Stroke Association is celebrating May 2006 as American Stroke Month in California; and

WHEREAS, The theme for American Stroke Month 2006 "Time Lost Equals Brain Lost," offers advocates for stroke awareness an opportunity to educate the public and policymakers about the devastating effects of stroke; and

WHEREAS, The American Stroke Association's Power To End Stroke Campaign urges members of our communities to familiarize themselves with the warning signs, symptoms, and risk factors associated with stroke to reduce the devastating effects a stroke has on the entire community; and

WHEREAS, The American Stroke Association has committed itself to educating the African-American community about the increased risk of stroke, and how to prevent it, with its new campaign, "The Power To End Stroke . . . You are the Power;" and

WHEREAS, New and effective treatments have been developed to treat and minimize the severity and damaging effects of stroke, but much more research is needed; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of May 2006 shall be recognized as American Stroke Month in California in order to raise awareness of the effects of stroke; and be it further

Resolved, That the Legislature urges all California citizens to familiarize themselves with the warning signs, symptoms, and risk factors associated with stroke so that we might begin to reduce the devastating effects strokes have on our population; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 56

Senate Concurrent Resolution No. 7—Relative to Officer Stephan Gene Gray Memorial Highway.

[Filed with Secretary of State May 26, 2006.]

WHEREAS, The men and women of law enforcement have the unenviable task of guaranteeing the public's safety, and it is as difficult and dangerous as it is important, as evidenced by the death of Officer Stephan Gene Gray of the Merced Police Department, who was killed in the line of duty on April 15, 2004, while working in an undercover detail with the Special Operations Unit specializing in street level narcotics and gang violence suppression; and

WHEREAS, Officer Gray was born on August 21, 1969, in Tulare to Lonather and Andrew Gray, Sr.; he attended local schools until his family relocated to Hanford, where he graduated from Hanford High School in 1987; and

WHEREAS, Officer Gray attended Fresno City College for two years, where he actively participated in sports, including baseball, track and field, and weightlifting; and

WHEREAS, Officer Gray entered the Fresno Police Academy, and upon completion, was hired as an officer by the Merced Police Department; and

WHEREAS, Throughout his life, Officer Gray exhibited all of the most treasured human qualities that are universally recognized as true indicators of a life of fulfillment and meaning; he was admired and appreciated for his kindness, generosity of spirit, love of family, eternal optimism, passion for working to make the world a better place, wonderful sense of humor, and genuine capacity to share his time and talents with others; and

WHEREAS, Officer Gray's love and influence on others has had an important and lasting value; and

WHEREAS, To mourn his passing and celebrate his legacy, Officer Gray leaves his lovely wife, Michelle; his children, Landess, Isaiah, and Cameron; his mother; Lonather Gray, his father, Andrew Gray, Sr.; his brothers, Andrew Gray, Jr. and Tony; his sister, Rosalind; his grandmothers Clonia Shaver and Charlie Mae Jones; his mother-in-law and father-in-law, Marge and Howard Zanders; and a host of friends and relatives; and

WHEREAS, Highly decorated, Officer Gray was a gallant and dedicated officer who exemplified the true character of the brave men and women who devote their time and energy to the perilous duties of law enforcement; and

WHEREAS, In honor of Officer Gray, Governor Arnold Schwarzenegger ordered that Capitol flags be flown at half-staff; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby officially designates that portion of State Highway Route 99 between Childs Avenue and 16th Street in

the City of Merced as the "Officer Stephan Gene Gray Memorial Highway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing these special designations, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 122—Relative to Guillain-Barré Syndrome.

[Filed with Secretary of State June 1, 2006.]

WHEREAS, Guillain-Barré Syndrome (GBS) is an inflammatory disorder of the peripheral nerves that is the most common cause of rapidly acquired paralysis in the United States, and attacks an estimated one to three of every 100,000 persons annually; and

WHEREAS, While rapidly acquired paralysis was first noted in medical journals throughout the 19th century, it was in the 1916 writings of French physicians Georges Guillain and Jean-Alexandre Barré (along with neurologists Andre Strohl and Jean Landry), specialists in neurology, who first recognized the condition; and

WHEREAS, GBS typically begins with weakness, tingling, or loss of sensation that often begins in a patient's feet and legs and spreads to the upper body and arms; and

WHEREAS, Symptoms of GBS may also include moderate pain throughout the body, paralysis of legs, arms, respiratory muscles, and face, difficulty with eye movement, facial movement, speaking, chewing, or swallowing, very slow heart rate or low blood pressure, and difficulty with bladder control or intestinal functions; and

WHEREAS, These symptoms can appear in a patient over a period of three to four weeks, or may develop over the course of hours or days; and

WHEREAS, The cause of GBS is not known, but research indicates that it may be a disorder of the immune system. The immune system may destroy the protective covering of the peripheral nerves, severely

slowing or completely disabling the nerves from transmitting signals to the muscles, triggering paralysis; and

WHEREAS, Approximately two-thirds of people affected by GBS have had a recent infectious illness, such as sore throat, diarrhea, cold, or flu; and

WHEREAS, There are multiple ways to test for GBS, including a spinal tap and an electrical test of nerve and muscle function, in addition to observation of a patient's symptoms, a physical exam, and an evaluation of the medical history; and

WHEREAS, No cure is known for GBS, but therapies can lessen the severity of the illness, treat complications, and accelerate recovery in most patients. Treatments include plasmapheresis, a "blood cleansing" procedure in which damaging antibodies are removed from the patient's blood, intravenous immunoglobulin, which contains healthy antibodies from blood donors, creating excess antibodies that block the damaging antibodies in the patient's blood, and, less frequently, steroids; and

WHEREAS, The outlook for most GBS patients is positive, and about 75 to 85 percent of those affected recover after treatment and extensive physical therapy, with only minor, residual weakness or numbness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares the month of May 2006, as Guillain-Barré Syndrome Awareness Month, in order to raise public awareness about GBS, provide support and assistance to GBS patients and their families, and urge support for continued research; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 58

Assembly Concurrent Resolution No. 147—Relative to Asian and Pacific Islander American Heritage Month.

[Filed with Secretary of State June 1, 2006.]

WHEREAS, The earliest Asian Americans immigrated to the United States in the 1800s; and

WHEREAS, Asian and Pacific Islander Americans have played a critical role in the social, economic, and political development of California throughout its history; and

WHEREAS, The 4.22 million Asian and Pacific Islander Americans in California are one of the fastest growing ethnic populations in the state; and

WHEREAS, Asian and Pacific Islander Americans represent over 14 percent of California's population and represent ancestries that include Burmese, Cambodian, Chinese, East Indian, Filipino, Guamanian, Hawaiian, Hmong, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Singaporean, Thai, Tongan, and Vietnamese; and

WHEREAS, Asian and Pacific Islander American entrepreneurs have led many of California's businesses to the pinnacle of their respective industries; and

WHEREAS, Asian and Pacific Islander American communities throughout California actively promote their cultural heritage and promote cross-cultural understanding; and

WHEREAS, Asian and Pacific Islander Americans will continue to be an important part of California's diverse tapestry of cultures and ideas; and

WHEREAS, Asian and Pacific Islander American immigrants have contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, Asian and Pacific Islander American refugees have revitalized many of California's communities, while bringing in new ideas and economic opportunities; and

WHEREAS, Asian and Pacific Islander American immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families; and

WHEREAS, Asian and Pacific Islander Americans have a proud legacy of service and dedication to the state and to the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends Asian and Pacific Islander Americans for their notable accomplishments and outstanding service to the state, and recognizes the month of May 2006 as Asian and Pacific Islander American Heritage Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 59

Assembly Joint Resolution No. 37—Relative to the Voting Rights Act of 1965.

[Filed with Secretary of State June 1, 2006.]

WHEREAS, Throughout United States history, each extension of voting rights has been strongly resisted by anti-civil rights forces representing all partisan perspectives; and

WHEREAS, Both Democrats and Republicans in Congress voted to enact the Voting Rights Act, and subsequent re-authorizations of the Act have similarly enjoyed broad bipartisan support; and

WHEREAS, Historically, voter suppression frequently involved terrorist violence, intimidation, and fraud to depress turnout and undo the effect of lawfully cast votes to preserve the political supremacy of white male property owners; and

WHEREAS, Disfranchising laws and practices included poll taxes, literacy tests, vouchers of "good character," disqualification for "crimes of moral turpitude," and gerrymandering of districts to further reduce voting strength and minimize the number of elected officials based on race; and

WHEREAS, These laws were "color-blind" on their face, but were designed to disproportionately exclude certain citizens based on race by allowing white elections officials to apply the procedures selectively; and

WHEREAS, Nearly all black citizens were disenfranchised and removed from the voter rolls by 1910 in the former Confederate States as a result, undermining equal protection and opportunity for African-Americans while reinforcing privileged access to educational and economic opportunities and public services for whites; and

WHEREAS, Native American, Latino, and Asian-American/Pacific Islander communities experienced similar attempts to disenfranchise citizens in their communities throughout the United States; and

WHEREAS, The process of restoring voting rights would take many decades, even as women were finally granted the franchise in 1920 with the ratification of the Nineteenth Amendment to the United States Constitution; and

WHEREAS, The United States Congress enacted the federal Voting Rights Act of 1965 in response to the numerous obstacles and barriers that had been erected by many states and local governments to prevent the free exercise of the right to vote and to participate on an equal basis in the electoral process by members of racial minorities; and

WHEREAS, Upon extension of the law in 1975 to include protections for non-English-speaking language minorities, citizens of Latino, Asian, Native American, and Alaskan Native descent were given greater opportunities to participate in democracy, and when the United States Department of Justice stepped in to enforce the language assistance

provisions of the act in San Diego, California in 2004, voter registration among Latinos and Filipino Americans increased by 20 percent; and

WHEREAS, The Voting Rights Act of 1965 is widely viewed as one of the most successful civil rights statutes ever enacted; and

WHEREAS, The Voting Rights Act of 1965 provides extensive voter protections, such as equipping voters with the means to challenge election laws that result in a denial or abridgment of voting rights on account of race, color, or language minority status (Section 2); eliminating literacy tests nationwide (Section 201); requiring federal approval before covered jurisdictions with a history of practices that restrict minority voting rights can implement changes in existing voting practices and procedures (Section 5); providing the United States Department of Justice with the authority to appoint federal election monitors and observers to ensure that elections are conducted free from discrimination and intimidation (Sections 6 to 9, inclusive); and mandating language assistance and translated voting materials in jurisdictions with substantial concentrations of language minorities (Section 203); and

WHEREAS, In 2007, certain "special provisions" of the Voting Rights Act that were enacted to address discriminatory voting practices are set to expire unless Congress acts to reauthorize them; and

WHEREAS, Among the provisions credited most with enfranchising the Americans historically disenfranchised prior to enactment of the Voting Rights Act of 1965 are Section 5 (federal preclearance of voting changes in covered jurisdictions to prove that voting changes are not discriminatory before they may legally take effect); Section 4 (the coverage provision, which determines which states and jurisdictions must seek Section 5 preclearance); Sections 6 to 9, inclusive (the Federal Examiner/Observer provisions, which set forth criteria for election monitoring by the United States Department of Justice); and Section 203 (the bilingual voting materials provisions, which mandate that certain voting materials must be translated for language minorities in certain jurisdictions); and

WHEREAS, The United States Department of Justice has brought enforcement litigation pursuant to the Voting Rights Act in several California communities, many of which are now certified to receive federal examiners pursuant to Section 3(a) of the Voting Rights Act and some of which already have received examiners at the polls; and

WHEREAS, The United States Attorney General's authority to certify jurisdictions for the appointment of federal examiners and observers under Sections 6 through 9 of the Voting Rights Act, which authority is also set to expire, has been important in assigning federal examiners and observers to prevent and deter voting discrimination; and

WHEREAS, Section 5 of the Voting Rights Act, which is also set to expire, requires jurisdictions with a documented history of discriminatory voting practices to obtain prior approval from federal officials, preclearance, before changing local election procedures and California is included in 16 states that are subject to preclearance requirements under Section 5; and

WHEREAS, The language assistance provisions of the Voting Rights Act including Section 203, which are also set to expire, guarantee access to election materials in multiple languages for citizens with limited English proficiency and California is one of 31 states with language assistance protections. More specifically, the Voting Rights Act's language assistance provisions including Section 203 require 26 out of California's 58 counties to individually provide language assistance for one or more languages other than English; and

WHEREAS, The Voting Rights Act remains as relevant and necessary today as the day it was first enacted in 1965, and with America at a time when it stakes much of its international reputation on promoting democracy around the world, at considerable financial, political, and human cost, we must ensure the rigorous protection of democracy here at home; and

WHEREAS, This year marks the 41st anniversary of the Voting Rights Act of 1965, and all Americans should pay homage to civil rights advocates whose sacrifices and hard work advanced the expansion of democracy; and

WHEREAS, We must applaud the substantial progress that has been made in protecting the right to vote, but continue efforts to ensure fairness and equal access to the political process in the United States in order to protect the rights of every American; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature and the State of California respectfully memorializes the Congress and President of the United States to extend the provisions of the federal Voting Rights Act of 1965 that are set to expire in 2007; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and each Member of the Senate and the United States House of Representatives representing California.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 40—Relative to Medicare prescription drugs.

[Filed with Secretary of State June 1, 2006.]

WHEREAS, The United States Congress enacted the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) in 2003; and

WHEREAS, The MMA promised a voluntary prescription drug benefit, known as Medicare Part D, to all Medicare beneficiaries; and

WHEREAS, At the insistence of Congress and the President of the United States, Part D is administered by multiple private insurance companies offering dozens of different plans in every state; and

WHEREAS, In California alone, Medicare beneficiaries who wish to enroll in Part D must choose from 47 different stand-alone Medicare prescription drug plans and many more Medicare Advantage plans; and

WHEREAS, On October 15, 2005, Medicare prescription drug plan sponsors began aggressively marketing their plans to seniors and persons with disabilities; and

WHEREAS, On November 15, 2005, Medicare beneficiaries throughout the country began enrolling in the new Medicare Part D prescription drug plans; and

WHEREAS, As of December 2005, only one million of the approximately 21 million Medicare beneficiaries throughout the country who are eligible for voluntary enrollment in Part D had enrolled; and

WHEREAS, In addition only a small percentage of the millions of low-income beneficiaries eligible for federal subsidies have enrolled in Part D; and

WHEREAS, Federal law currently requires the initial open enrollment period to end on May 15, 2006, after which Medicare beneficiaries will be subject to substantial permanent financial penalties for "late enrollment"; and

WHEREAS, The structure of Part D and the need to choose from among dozens of plans are causing confusion and consternation among seniors; and

WHEREAS, There have not been enough independent counselors available to help guide seniors through the myriad options; and

WHEREAS, Seniors who currently have retiree health care coverage, including prescription drug coverage, are at risk of losing both their existing health and drug coverage if they inadvertently enroll in Medicare Part D; and

WHEREAS, The federal government should not penalize seniors for being confused, but should work to provide Medicare beneficiaries the time and opportunity to make the best choice about their prescription drug coverage; and

WHEREAS, Legislation has been introduced in the Congress, H.R. No. 3861, "The Medicare Informed Choice Act of 2005", that extends the deadline for enrollment in Medicare Part D until December 31, 2006, permits Medicare beneficiaries to change plans once in 2006 if they have made a poor selection, and protects those with retiree health benefits who may not be aware that purchasing Medicare drug coverage could cost them their retiree benefits; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Congress and the President of the United States to enact H.R. No. 3861, "The Medicare Informed Choice Act of 2005" to give our nation's disabled and senior citizens who are Medicare beneficiaries the time to make an informed decision and protect them from losing their retiree health benefits; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States and to all Members of the Congress of the United States.

RESOLUTION CHAPTER 61

Senate Concurrent Resolution No. 111—Relative to California Cancer Survivors Day.

[Filed with Secretary of State June 2, 2006.]

WHEREAS, According to the National Cancer Institute, an estimated 10.1 million Americans are living with a cancer history. Some of these individuals are cancer-free, while others still have evidence of cancer and may be undergoing treatment; and

WHEREAS, The American Cancer Society, California Division, approximates that nearly 950,000 Californians who are alive today have a history of cancer, and nearly 590,000 were diagnosed five or more years ago; and

WHEREAS, Anyone is at risk for developing some form of cancer; and

WHEREAS, The National Cancer Survivors Day Foundation defines survivor as anyone living with a history of cancer, from the moment of diagnosis through the remaining years of life; and

WHEREAS, This year, about 136,875 Californians will be diagnosed as having cancer; and

WHEREAS, More than 79,000 Californians who will be diagnosed with cancer this year will be alive five years after diagnosis; and

WHEREAS, Improved and early detection and treatment allows more people with cancer to live longer and with a better quality of life than ever before; and

WHEREAS, Nevertheless, it must be recognized that cancer is a life-altering experience not solely for the individual, but for family members, friends, and caregivers; and

WHEREAS, Emotional, physical, and financial hardships are common occurrences that individuals and their extended communities endure years after diagnosis; and

WHEREAS, It is essential to recognize and educate communities about the organizations and agencies available to survivors and their families and friends; and

WHEREAS, In addition, it is imperative that acknowledgment, reflection, and commemoration of this extraordinary feat take place for all those impacted by this life-altering experience; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims the first Sunday of June 2006 and in each year thereafter, as California Cancer Survivors Day, to coincide with National Cancer Survivors Day; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor.

RESOLUTION CHAPTER 62

Senate Joint Resolution No. 15—Relative to teachers.

[Filed with Secretary of State June 2, 2006.]

WHEREAS, After 1965, California's educators were not allowed to participate in the federal social security system; and

WHEREAS, Due to higher contribution rates and superior investment returns, the California State Teachers' Retirement System provides retirees with superior benefits compared to those provided by the federal social security system; and

WHEREAS, The State Teachers' Retirement System is not coordinated with the federal social security system; and

WHEREAS, The Social Security Act includes two offsets, the Government Pension Offset and the Windfall Elimination Provision,

that reduce the social security benefits payable to persons who are entitled to benefits under other retirement systems, under certain conditions; and

WHEREAS, These provisions penalize individuals who move from private sector employment to teaching and vice versa; and

WHEREAS, These provisions penalize individuals who earned social security benefits through their own employment prior to teaching; and

WHEREAS, California has a significant teacher shortage and requires more than 16,000 new teachers per year to meet enrollment growth needs as well as retirement replacement; and

WHEREAS, Every child should have the opportunity to have a highly qualified teacher in his or her classroom, but the Social Security Act offsets limit the number of fully credentialed teachers in the classroom by penalizing individuals who change from private to public employment; and

WHEREAS, The recruitment and retention of teachers from other states who are entitled to social security benefits upon retirement is also limited and restricted by these offsets; and

WHEREAS, The Social Security Fairness Act of 2006, which would repeal the Government Pension Offset and the Windfall Elimination Provision, is currently before Congress; and

WHEREAS, The elimination of the Government Pension Offset and the Windfall Elimination Provision would greatly improve the opportunities for hiring and retaining teachers in California; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California requests the Congress of the United States to support the Social Security Fairness Act of 2006 which would repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act, and further, the Legislature of the State of California requests President George W. Bush to sign that legislation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 63

Assembly Concurrent Resolution No. 144—Relative to Skin Cancer Awareness Month.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, Malignant melanoma, a serious skin cancer, is characterized by the uncontrolled growth of pigment-producing tanning cells; and

WHEREAS, Excessive exposure to ultraviolet radiation (UVA and UVB) is the most important and preventable cause of melanoma. Other possible causes include genetic factors and immune deficiencies. Malignant melanoma has also been linked to past sunburns and sun and tanning device exposure at younger ages; and

WHEREAS, Melanoma can affect men, women, and children; and

WHEREAS, The incidence of melanoma has doubled in the last 20 years, and it continues to rise faster than any other cancer in women, except for lung cancer. Melanoma is the most common form of cancer among people between 25 and 29 years of age, and experts estimate that if the present rate continues, soon melanoma will strike one in 70 Californians; and

WHEREAS, Early detection is crucial. There is a direct correlation between the detection of melanoma and the survival rate. If melanoma is detected and treated early and aggressively by a qualified medical professional, the cure rate is very high; and

WHEREAS, Melanoma in its early stages may only be detected by visual inspection. Dermatologists recommend regular self-examination of the skin to detect changes in its appearance, especially changes in existing moles or blemishes. Additionally, patients with risk factors should have a complete skin examination annually; and

WHEREAS, On Monday, May 1, 2006, the California Society of Dermatology and Dermatologic Surgery engaged in its Seventh Annual Skin Cancer Awareness Day public health screening at the state capitol building, and in the six preceding years, the society has screened nearly 1,500 persons, including constitutional officers, Members of the Legislature, members of the capitol community, and the general public; and

WHEREAS, The California Society of Dermatology and Dermatologic Surgery has an outstanding record of service and leadership in advancing the cause of prevention, detection, and treatment of skin cancers and diseases of the skin, and in its service to the capitol community and the People of the State of California, and is encouraged to continue its endeavors to expand these screening and detection efforts throughout the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 2006, shall be recognized as Skin Cancer Awareness Month in California, and that all Californians shall

be encouraged to make themselves and their families aware of the risk of skin cancer as well as the measures that can be taken to prevent it.

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 146—Relative to California Building Safety Week.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, California relies upon buildings to house our communities and protect the personal safety of our citizens; and

WHEREAS, The safety of the buildings we occupy daily is essential to the health, safety, and welfare of the citizens of California; and

WHEREAS, The safety of our buildings and those who occupy them is ensured each day by the tireless efforts of building and code enforcement officials; and

WHEREAS, Among the world's most fundamental laws and ordinances are those that provide standards for the safe construction of buildings in which people live, work, and play; and

WHEREAS, California is currently updating its outdated building code, which upon completion, will bring a new generation of building safety and protection to the people of California in an ongoing effort to ensure that residents and individuals patronizing businesses and homes within California are afforded the highest construction standards available; and

WHEREAS, California Building Safety Week emphasizes the important role local building departments play in the development and maintenance of safe buildings in our communities; and

WHEREAS, Local building departments help to ensure that the health, safety, and general well-being of the public are protected by reviewing building construction plans, issuing building permits, inspecting buildings during and after construction to guarantee that they comply with the necessary health and safety regulations, and enforcing the preventive work that contributes to the success of keeping the occupants of the structure safe during an emergency; and

WHEREAS, For construction and building codes to be effective and enforced, understanding and cooperation must exist between building and code enforcement officials and the people they serve; and

WHEREAS, Through the efforts of building and code enforcement officials worldwide, and their cooperative relationship with the

construction industry, the administration of these health and life-safety standards is assured; and

WHEREAS, Cities and counties across California are joining to promote building safety through the observation of California Building Safety Week; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares the week of May 7–13, 2006, as California Building Safety Week and urges all citizens to participate in California Building Safety Week activities to help promote building safety, to create awareness as to the importance of construction and building codes, and to spotlight the role of the dedicated code official in administering those codes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 65

Assembly Concurrent Resolution No. 153—Relative to the 30th anniversary of the Paris Wine Tasting of 1976.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, On May 24, 1976, a wine tasting known as the Paris Wine Tasting of 1976, forever revolutionized California's wine industry; and

WHEREAS, A wine merchant located in Paris, named Steven Spurrier, organized the Paris Wine Tasting of 1976 as a publicity stunt because he thought the French wines would easily win; and

WHEREAS, The panel of nine judges were all French wine-tasting experts with impeccable professional credentials such as Pierre Tari, secretary-general of the Association des Grands Crus Classes, and Raymond Oliver, owner of Le Grand Vefour restaurant, and famous French culinary writers; and

WHEREAS, The tasting was done blind with the wine poured from neutral bottles with no labels so that the judges did not recognize the wines by the bottle's characteristics; and

WHEREAS, The white wines were the first category judged and matched transatlantic cousins French Burgundy against California Chardonnay; and

WHEREAS, To the shock of all the judges, California wines won three out of the top four in the white wine category with the winner being

the Napa Valley 1973 Chardonnay from Chateau Montelena, which beat out the 1973 Meursault-Chames Burgundy. California Chardonnays by Chalone Vineyard and Spring Mountain Vineyard finished third and fourth respectively; and

WHEREAS, After the results of the white wines had been revealed, the judges began the second half of the tasting competition, which matched French Bordeaux against California Cabernet Sauvignon; and

WHEREAS, To the continued astonishment of the French judges after making disparaging remarks about the wines they thought to be from California, the 1973 Stag's Leap Wine Cellars Cabernet Sauvignon from the Napa Valley had won the red wine category; and

WHEREAS, Some of the French judges tried to disparage the event claiming the competition was rigged and one of the judges, Odette Kahn, tried to get her ballot back, and the French press virtually ignored the event for months until articles were published that condescended and dismissed the event; and

WHEREAS, While some of the French judges and French press tried to disparage and conceal the results of the event, a Time magazine journalist named George Taber was there and witnessed the event, and broke the news to the world in the June 7, 1976, edition of Time magazine; and

WHEREAS, Prior to the Paris Wine Tasting of 1976, French wines were thought to be the best wines in the world and, in fact, every President of the United States from George Washington to John F. Kennedy served French wines until President Lyndon B. Johnson made it a decree that the White House would serve only American wines; and

WHEREAS, The Smithsonian Institute has added a bottle of Chateau Montelena Chardonnay and Stag's Leap Wine Cellars Cabernet Sauvignon to their permanent collection to commemorate the competition; and

WHEREAS, The results of the Paris Wine Tasting of 1976, now known as the Judgment of Paris, cannot be understated in its impact of not only California's $40 billion wine industry but the wine industry around the world; and

WHEREAS, All of the California wineries that participated in the Paris Wine Tasting of 1976 such as Chalone Vineyard, Chateau Montelena, Clos du Val, David Bruce Winery, Freemark Abbey, Heitz Wine Cellars, Mayacamas Vineyards, Ridge Vineyards, Spring Mountain Vineyard, and Stag's Leap Wine Cellars should all be forever commended for their contributions to California's wine industry and for wine around the world by showing that world class wine can be produced outside of France; and

WHEREAS, May 24, 2006, marks the 30th anniversary of the Judgment of Paris, the wine tasting competition that revolutionized the wine industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares May 24, 2006, the 30th Anniversary of the Judgment of Paris in recognition of the importance of the results of the Paris Wine Tasting of 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Library and to the author for appropriate distribution.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 154—Relative to Yellow Ribbon Day.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, May 25, 2006, is being recognized as Yellow Ribbon Day in California in support of military families and our troops who are defending our country; and

WHEREAS, It is very difficult for military families who have loved ones in the very dangerous conflicts in Iraq and Afghanistan who are fighting for freedom for all; and

WHEREAS, Because of the importance of demonstrating support for military families and troops during this very difficult time, May 25, 2006, has been designated to publicly show support for these individuals; and

WHEREAS, Ceremonial activities have been planned to bring people together to commemorate Yellow Ribbon Day in support of our military families and our troops; and

WHEREAS, Californians are proud of our troops and their families, and appreciate the great sacrifice they are making to assure freedom for all; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California, in support of military families and their loved ones who are defending our country and fighting for the preservation of freedom for all, does hereby proclaim May 25, 2006, Yellow Ribbon Day, a special day for Californians to extend their sincerest appreciation for the sacrifices military families

and our troops are making and to commemorate our troops and their families with ceremonial activities; and be it further

Resolved, That the Chief Clerk of the Assembly distribute copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 67

Assembly Joint Resolution No. 46—Relative to earthquake response plans.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, The Department of Conservation has estimated that the average annualized cost of structural and nonstructural building damage caused by earthquakes could total $2.2 billion in the coming decades, and has reported that major earthquakes similar in strength to the Loma Prieta earthquake and the Northridge earthquake could each result in damages of approximately $50 billion or more; and

WHEREAS, Organizations specializing in seismic events and risk assessment estimate that a repeat of the 1906 San Francisco earthquake would result in up to 8,000 deaths, 18,000 injuries requiring hospitalization, and projected losses of up to $225 billion in the northern bay area region; that major shifts in the fault beneath Los Angeles could result in excess of 18,000 fatalities, three-fourths of a million displaced households, and over $250 billion in total damages to the region; and that a 6.5 magnitude earthquake in the Sacramento delta area could collapse 30 levees, flood 16 delta islands, and damage 200 miles of additional levees, with damages exceeding $30 billion, 85,000 acres of farmland flooded, and over 3,000 homes destroyed; and

WHEREAS, Catastrophic earthquake response plans are essential to avoid the impact to human life, health, basic public services, infrastructure, and economy; and

WHEREAS, In the aftermath of recent federally declared natural disasters, the Legislature and the Little Hoover Commission have conducted over a dozen hearings to assess California's emergency preparedness and response capabilities; and

WHEREAS, From those hearings it is apparent that the state's emergency management system is sound, but the federal and state governments' planning and preparedness are not at an acceptable level to ensure that all communities in California are prepared for emergencies, particularly catastrophic emergencies that could overwhelm California's

response capabilities and resources, and require federal disaster assistance; and

WHEREAS, It is incumbent upon federal and state lawmakers to direct the lead federal and state emergency response agencies to work together to develop response plans to catastrophic events that have cascading impacts that could overwhelm traditional response strategies; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to direct the Federal Emergency Management Agency, within the Department of Homeland Security, to immediately work with the Governor's Office of Emergency Services, the appropriate local emergency response agencies, and representatives from volunteer organizations and the private sector, to develop a catastrophic emergency response plan that identifies planning, response, mitigation, and recovery strategies to address the threats posed by catastrophic natural disasters; and be it further

Resolved, That the California Governor's Office of Emergency Services coordinate with the Federal Emergency Management Agency, the appropriate local emergency response agencies, volunteer organizations, and the private sector to conduct ongoing full scale training exercises to test coordinated response capabilities to catastrophic natural disasters; and perform after-action reports to identify successes and insufficiencies, recommend actions to rectify those insufficiencies, and include those recommendations into the catastrophic response plan and plan updates; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 68

Assembly Joint Resolution No. 48—Relative to the Veterans Remembered Flag.

[Filed with Secretary of State June 5, 2006.]

WHEREAS, There are flags for all branches of the armed services, there is a flag for POWs and MIAs, but there is no flag to honor the millions of former military personnel who have served our nation; and

WHEREAS, A flag is a symbol of recognition for a group or an ideal. Veterans compose a group, certainly represent an ideal, and surely they deserve their own symbol; and

WHEREAS, It is estimated that 20,400,000 veterans, affiliated and unaffiliated with veterans' organizations, who have served in our nation's military comprise a significant portion of our country's population; and

WHEREAS, A Veterans Remembered Flag would memorialize and honor all past, present, and future veterans and provide an enduring symbol to support tomorrow's veterans today; and

WHEREAS, Displaying and flying this flag would validate the lives of millions of individuals who have served our country in times of war, peace, and national crisis; and

WHEREAS, The Veterans Remembered Flag would fill the void of a flag to honor to all veterans who have served in our country's Armed Forces; and

WHEREAS, The symbolism of this unique flag's design would be all-inclusive and would pay respect to the history of our nation, to all branches of the military, and honor those who have served or died in the service of our nation; and

WHEREAS, The Veterans Remembered Flag should be designed in substantially the following form:


VETERANS REMEMBERED

WHEREAS, This design of the Veterans Remembered Flag does all of the following:

(a) Depicts the founding of our nation through the 13 stars that emanate from the hoist of the flag and march to the large red star that represents our nation and the five branches of our country's military that defend her: the Army, Navy, Air Force, Marines, and Coast Guard.

(b) The white star indicates a veteran's dedication to service.

(c) The blue star honors all men and women who have ever served in our country's military.

(d) The gold star memorializes those who fell defending our nation.

(e) The blue stripe that bears the title of the flag honors the loyalty of veterans to our nation, flag, and government.

(f) The green field represents the hallowed ground where all rest eternally; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that the President and Congress of the United States of America adopt a Veterans Remembered Flag as described herein; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 69

Assembly Concurrent Resolution No. 56—Relative to hate crimes.

[Filed with Secretary of State June 13, 2006.]

WHEREAS, Hate crimes are acts of terror meant to intimidate and cause fear in our communities to deter the free exercise of enjoyment of any rights or privileges secured by the United States and the California Constitutions, the laws of the United States, and the laws of the State of California; and

WHEREAS, The California Department of Justice reported 1491 hate crimes in 2003 and 1409 hate crimes in 2004; and

WHEREAS, The U.S. Department of Justice's National Criminal Victimization Survey estimates that an annual average of 210,000 hate crime victimizations occurred nationally from July 2000 to December 2003; and

WHEREAS, The U.S. Department of Justice's National Criminal Victimization Survey reveals that 56 percent of hate crimes are not reported to the police; and

WHEREAS, The underreporting of hate crimes is the result of a variety of factors that include the victim's lack of knowledge about the criminal justice system, fear of retaliation, linguistic and cultural barriers, immigration status, and prior negative experience with governmental agencies; and

WHEREAS, California needs to remain vigilant in promoting tolerance to address growing white supremacist movements, such as the Aryan Nation and Aryan Brotherhood, in California that recruit our youth through music, the Internet, and other media and information outlets; and

WHEREAS, The Anti-Defamation League reports that hate rock concerts are organized yearly in Southern California by labels like White Heat Productions and Condemned Records which feature bands that encourage hate violence in their lyrics; and

WHEREAS, The Southern Poverty Law Center reports that the number of active hate crime organizations increased from 45 active hate organizations in 2004 to 52 active hate organizations in 2005; and

WHEREAS, The 36 million Californians make up one of the most diverse populations in the United States where 43.8 percent identify as White, 35.2 percent identify as Latino, 6.6 percent identify as Black, 11.1 percent identify as Asian, 0.7 percent identify as Native American, 0.3 percent identify as Native Hawaiian, 1.9 percent identify as multi-ethnic, 12.3 percent identify as people with disabilities, 50.5 percent identify as female and 26.8 percent identify as foreign-born Americans; and

WHEREAS, All Californians should condemn acts of violence and prejudice on the basis of race, ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of June 2006 is hereby designated as Hate Crimes Awareness Month to educate community members on the proper reporting of hate crimes and to increase awareness about diversity and tolerance to improve public safety; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 88—Relative to California Hispanic Heritage Month.

[Filed with Secretary of State June 13, 2006.]

WHEREAS, President Lyndon B. Johnson first proclaimed and designated the week that included September 15 and 16 in 1968, as National Hispanic Heritage Week, as a result of a Joint Resolution approved by Congress on September 17, 1968, in recognition of the contributions of Hispanic Americans to American culture and history; and

WHEREAS, The original weeklong commemoration was changed by Public Law No. 100-402, which took effect on January 1,1989, to National Hispanic Heritage Month that is to include the 31-day period beginning September 15 and ending on October 15; and

WHEREAS, The objectives of National Hispanic Heritage Month are to create a greater awareness of the contributions of Hispanic Americans to American culture, to illustrate the diversity of the Hispanic American community, and to encourage a greater curiosity within young people about the rich history and cultural heritage of Hispanic Americans; and

WHEREAS, Hispanic influence is evident in American culture in, among other things, music, art, science, food, humanities, and business and trade; and

WHEREAS, Hispanic Americans from the time of the Revolutionary War to the War on Terrorism subsequent to September 11, 2001, have proudly served this country in the Armed Forces, and, during their course of service, 38 Hispanic Americans, including nine from California have been awarded the Congressional Medal of Honor, the highest honor conferred for military bravery and heroism above and beyond the call of duty; and

WHEREAS, There are nearly 11 million Hispanic Americans in California; and

WHEREAS, Hispanic Americans have contributed to the development and success of California by playing major roles in building this state through agriculture, medicine, science, entertainment, business, education, civil rights, politics, and sports; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims September 15 to October 15, 2006, inclusive, as California Hispanic Heritage Month and encourages all Californians to observe this event in communities throughout the state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 89—Relative to California Indian Heritage Month.

[Filed with Secretary of State June 13, 2006.]

WHEREAS, President George W. Bush proclaimed November 2005 as National American Indian Heritage Month in recognition of American Indians and Alaskan Natives; and

WHEREAS, California Indians, through their rich cultural traditions and proud ancestry, have made vital contributions to the strength and diversity of our society; and

WHEREAS, In recognition of the sovereignty of the California Indian nations to be self-governing, self-supporting, and self-reliant, we are working to protect and enhance tribal resources; and

WHEREAS, As of the last census, over 330,000 American Indians were living in California, more than any other state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims that the month of November 2006 be recognized as California Indian Heritage Month, encourages the observance of this event with activities that celebrate our uniqueness as Americans, and takes this opportunity to commend California Indian nations for their outstanding contributions to this great state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 143—Relative to Dale Earnhardt.

[Filed with Secretary of State June 14, 2006.]

WHEREAS, NASCAR racing legend Dale Earnhardt was born April 29, 1951; and

WHEREAS, His first career Winston Cup win came on April 1, 1979, at Bristol Motor Speedway; and

WHEREAS, With 76 victories during his career, including seven Winston Cup Championships, four IROC Championships, 10 wins at Talladega Super Speedway, and 34 wins at Daytona International Speedway, Dale Earnhardt was truly the face of NASCAR, inspiring fans throughout California and the nation with his skill on the track; and

WHEREAS, Known as "The Intimidator," Dale Earnhardt, at the wheel of the number 3 race car, created a legacy in American motor sports by amassing so many wins; and

WHEREAS, Dale Earnhardt changed the sport of auto racing by bridging past, present, and future generations of fans by upholding the finest NASCAR traditions while remaining a cutting edge competitor throughout his career; and

WHEREAS, Dale Earnhardt's tragic death on February 18, 2001, deeply touched countless people, and the loss of this great icon of auto racing events throughout the nation will be missed by generations to come; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature declares April 29 of this year, and every year thereafter, as Dale Earnhardt Day for the State of California, and encourages all citizens to remember Dale Earnhardt, on the occasion of his birthday, for his passion for racing, his devotion to his family, and fans, and his countless contributions to the racing industry throughout the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 90—Relative to 10 Steps to a Healthy California.

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

WHEREAS, The California Task Force on Youth and Workplace Wellness seeks to create and promote programs and policies that decrease the obesity rates in California's schools and workplaces; and

WHEREAS, California continues to experience an epidemic of obesity and diabetes, costing the state financially and causing suffering, illness, and death for many Californians; and

WHEREAS, Health costs of the epidemic are dramatic, costing the state an estimated $27.1 billion annually; and

WHEREAS, Cities, towns, counties, and special districts have opportunities to affect the epidemic positively, through the built environment, planning, and programs in local communities; and

WHEREAS, Schools have opportunities to affect the epidemic by offering nutritious food and snacks, quality physical education and health studies, after school programs, and school-based recreation; and

WHEREAS, Workplaces can improve productivity, promote health, and reduce liability costs through simple measures that promote employee wellness; and

WHEREAS, By supporting realistic goals, the state can move towards reversing the obesity epidemic; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature supports the following "10 Steps to a Healthy California":

(1) That the Legislature shall promote the importance of physical activity and healthy eating.

(2) That every child should participate in physical activities.

(3) That schools should only offer healthy foods and beverages to students.

(4) That only healthy foods should be marketed to children ages 12 years and under.

(5) That produce and other fresh healthy food items should be affordable and available in all neighborhoods.

(6) That neighborhoods and communities should support physical activity, including safe walking, stair climbing, and bicycling.

(7) That healthy foods and beverages should be accessible, affordable, and promoted in restaurants and entertainment venues.

(8) That health care providers and insurers should promote physical activity and healthy eating.

(9) That employees should have access to physical activity and healthy food options.

(10) That the Legislature recognizes the unique ability of the California Task Force on Youth and Workplace Wellness to help the state serve as a role model for increased physical activity and improved nutrition and wellness throughout the nation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 74

Senate Concurrent Resolution No. 104—Relative to Philippine immigration.

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

WHEREAS, The people of the Philippine archipelago have a long and proud history, and today, as the Republic of the Philippines, embrace democracy, occupy a central strategic position in Asia and the Pacific, and nurture a rich and diverse cultural heritage; and

WHEREAS, The United States and the Philippines have enjoyed a long and productive relationship, including the period of United States governance between 1898 and 1946, and the period of postindependence starting in 1946, during which the Philippines has taken its place among the community of nations and has been one of our country's most loyal and reliable allies internationally; and

WHEREAS, The bonds between our two countries have been strengthened through sustained immigration from the Philippines to the United States; and

WHEREAS, The 2000 United States census counted almost 2.4 million Americans of Filipino ancestry living in all parts of our country, including the top two states: California, with almost 1.1 million Filipino Americans, and Hawaii, with some 275,000 Filipino Americans; and

WHEREAS, The complex and long history of Filipinos in California starts with the first recorded landing of Filipinos in America on October 18, 1587, in Morro Bay, where a commemorative historical marker now stands, to their participation in the building of California's missions, agricultural industry, and shipyards, as domestic workers, in the military, and in the medical and other professions; and

WHEREAS, Both the Filipino experience in the United States and the resultant ties between our two great countries began in earnest in 1906, when 15 Filipino contract laborers arrived in the then Territory of Hawaii to work on the islands' sugar plantations, the beginnings of an emigration from the Philippines to Hawaii which, during the subsequent century, has sometimes exceeded 60,000 a year, making Filipinos the largest immigrant group from the Asia-Pacific region; and

WHEREAS, 1906 also saw the first class of 200 "pensionados" arrive from the Philippines to obtain a United States education with the intent

of returning, although many later became United States citizens and helped form the foundation of today's Filipino American community; and

WHEREAS, Many Filipinos were true American pioneers, including Antonio Miranda Rodriguez, one of the 46 founders of Los Angeles; Philip Vera Cruz, a labor leader who helped organize the United Farm Workers Union; and Dado Banatao, who invented high-speed computer chips for graphics and Ethernet; and

WHEREAS, The contributions of Filipino Americans to the United States include achievements in all segments of our society, including, to name a few, labor, business, politics, medicine, media, and the arts; and

WHEREAS, Filipino Americans have especially served with distinction in the Armed Forces of the United States throughout the history of our long relationship, from World Wars I and II through the Korean War, the Vietnam War, the Gulf War, and today in Afghanistan and Iraq; and

WHEREAS, Within the United States, Filipino Americans retain many of their country's proud cultural traditions and contribute immeasurably to the diverse tapestry of today's American experience; and

WHEREAS, Filipino Americans have also maintained close ties to their friends and relatives in the Philippines and in doing so play an indispensable role in maintaining the strength and vitality of the United States-Philippines relationship; and

WHEREAS, The story of America's Filipino American community is little known and rarely told, yet is the quintessential immigrant story of early struggle, pain, sacrifice, and broken dreams, leading eventually to success in overcoming ethnic, social, economic, political, and legal barriers to win a well-deserved place in American society; and

WHEREAS, Our Filipino American community will recognize a century of achievement in the United States in 2006 through a series of nationwide celebrations and memorials honoring the centennial of sustained immigration from the Philippines; and

WHEREAS, This centennial is for all Americans of whatever ethnic origin to celebrate both with, and in order to understand and appreciate, our Filipino American community, but also as a remembrance of the struggles and triumphs of all of our predecessors and in honor of our common national experience; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes the centennial of sustained immigration from the Philippines to the United States, and acknowledges the achievements and contributions of Filipino Americans over the past century; and be it further

Resolved, That the Legislature requests the Governor to issue a proclamation calling on the people of California to observe this milestone with appropriate celebratory and educational programs, ceremonies, and other activities; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, and to the author for appropriate distribution.

RESOLUTION CHAPTER 75

Senate Concurrent Resolution No. 115—Relative to "Year of the Community."

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

WHEREAS, Forty years ago the State of California launched a bold experiment in public-private partnership that fundamentally changed and dramatically improved the quality of life for people with developmental disabilities and their families and that would become a model for the nation; and

WHEREAS, The vision to enable people with developmental disabilities to live full, productive, and satisfying lives as active members of their communities was embodied in a statewide network of community-based services and supports with regional centers playing the role of the coordinating hub; and

WHEREAS, California's first pilot regional centers for delivering services to persons with developmental disabilities, the Childrens Hospital at Los Angeles, and the San Francisco Aid for Retarded Children, which opened in 1966, marked the beginning of the regional center system; and

WHEREAS, By their achievements, the pilot centers proved the merit of the regional center concept and led to the introduction of Assembly Bill No. 225 in 1969, which enacted the Lanterman Mental Retardation Services Act of 1969, which is currently known as the Lanterman Developmental Disabilities Services Act, and which established the statewide system of services for persons with developmental disabilities; and

WHEREAS, The statewide system was designed to be organized at the regional level and to produce a dynamic network of local services and supports; and

WHEREAS, The increased availability of services in the community precipitated the state's shift from nearly total reliance on large state institutions to a regional service system in which more than 98 percent

of children and adults with developmental disabilities receive all of their needed services and supports in the community; and

WHEREAS, The regional center system was intended to provide services and supports to individuals with developmental disabilities that are innovative and cost effective, that result in growth and development, that improve the quality of life, and that support inclusion into community life; and

WHEREAS, During the decades following the passage of the Lanterman Act, the service system's evolution was enabled by advances in knowledge and technology and by the increasing recognition of the right of people with disabilities to choice and full participation in society, including the rights of children to live at home with their families; and

WHEREAS, The 21 regional centers in California continue to expand and diversify their services while serving over 200,000 persons with developmental disabilities and their families; and

WHEREAS, The service system has grown increasingly complex, requirements for service providers have grown in sophistication, and expectations for services have become more rigorous due to advances in knowledge and technology; and

WHEREAS, The 40th anniversary of the regional center system is an appropriate time to reaffirm our commitment to the Lanterman Act, and renew our investment in the community system; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the year of 2006 as the "Year of the Community" and the beginning of a decade of renewed commitment to the vision of the Lanterman Act and investment in the community service system; and be it further

Resolved, That the Legislature will actively promote the rights of people with developmental disabilities and their full inclusion into community life in California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 116—Relative to foster care.

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

WHEREAS, It is our vision that every child in California will live in a safe, stable, permanent home, nurtured by healthy adults, families, and strong communities; and

WHEREAS, Every year in California there are more than 80,000 children and youth in foster care; and

WHEREAS, All children in foster care have a continuing and urgent need for safety, stability, and permanency, including lifelong relationships with adults who will care for and support them throughout their lives; and

WHEREAS, It is California's goal for every child who enters into foster care to be supported and nurtured by the individuals, organizations, and systems that touch the life of that child; and

WHEREAS, In California, foster youth, foster parents, relatives, child welfare professionals, and advocates are working together in new ways, including, public and private partnership teams that are helping to change the lifetime of foster youth throughout the state; and

WHEREAS, There is still more work to be done on behalf of thousands of foster youth throughout the state; and

WHEREAS, The declaration by the Legislature of May as Foster Care Month provides an opportunity to raise community awareness about the needs of foster youth, spotlights the critical importance of foster care programs and services in our state, and offers appreciation to more than 13,000 families who open their homes to foster children in our state and the public and private partners who commit themselves daily in support of our children; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the month of May as Foster Care Month and May 2, 2006, as a special day of recognition to honor the teams that work to "change a lifetime" for children and youth in foster care in California; and be it further

Resolved, That the Legislature urges all Californians to volunteer their talents and energies on behalf of children and youth in foster care and to support the efforts of foster parents, private community organizations, and public child welfare agencies who care for them during this month and throughout the year; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 77

Senate Joint Resolution No. 21—Relative to sudden child cardiac arrhythmia syndrome.

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

WHEREAS, Teague Ryan was a five-year old boy who died of long Q-T syndrome, a genetic heart problem that caused the electrical rhythm of the heart to malfunction. It usually occurs in children or young adults; and

WHEREAS, Each month in the United States between 250 and 600 children die suddenly and unexpectedly from cardiac arrhythmia syndromes. These syndromes include long Q-T syndrome, arrhymogenic right ventricular dysplasia, hypertrophic cardiomyopathy, and other conditions; and

WHEREAS, Long Q-T syndrome is more common in the United States than childhood leukemia; and

WHEREAS, Most cardiac arrhythmia syndromes are identifiable through screenings. Once diagnosed, these syndromes are treatable and individuals can lead a normal life. Currently, children are not automatically screened for any cardiac arrhythmia syndromes; and

WHEREAS, Under the proposal currently included in House Resolution 1252, the Secretary of the federal Department of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, would be authorized to make awards of grants to states, and other public or nonprofit private entities, such as the Cardiac Arrhythmias Research and Education Foundation, the Sudden Arrhythmia Death Syndromes Foundation, and the Hypertrophic Cardiomyopathy Association; and

WHEREAS, These federal grants could be used to screen children under 19 years of age for sudden arrhythmic syndromes, provide referrals for medical services regarding these syndromes, and provide education to health professions and the public, including education on screening methods; and

WHEREAS, The Secretary would be required to give priority in making awards to children who participate in organized sports; and

WHEREAS, The Secretary would be authorized to provide technical assistance to grantees regarding the planning, development, and operation of programs. This technical assistance could be made directly or through grants. The Secretary would be required to provide for evaluations of programs in order to determine the effectiveness and quality of the programs; and

WHEREAS, Under House Resolution 1252, the federal government would appropriate the amount of $20,000,000 for the fiscal year 2006, and such sums as may be necessary for each of the fiscal years 2007 through 2010; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take

necessary action to enact House Resolution 1252, thus amending the Public Health Service Act to provide for a program of screenings and education regarding children with sudden cardiac arrhythmia syndromes; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to the Majority Leader of the United States Senate, to the Chair of the House Committee on Appropriations, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Senate Joint Resolution No. 29—Relative to Homeland Security.

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

WHEREAS, The U.S. Department of Homeland Security has identified California as one of the highest threat areas in the country; and

WHEREAS, The 2006 fiscal year Urban Area Security Initiative (UASI) grant program and grant guidance formulas have been changed and now allocate homeland security funding based on risk; and

WHEREAS, State and local governments were not consulted on the data used to calculate the risk; and

WHEREAS, Populous, high-risk cities such as San Diego and Sacramento are now only eligible to receive sustaining funds, and may lose UASI funding entirely in the 2007 fiscal year; and

WHEREAS, The Sacramento region is home to the governing capitol of the world's sixth largest economy; and

WHEREAS, The Sacramento region contains multiple rivers, levees, and dams as part of a system that serves the water needs of more than 20 million Californians; and

WHEREAS, As an example, the Folsom Dam is critical to flood control, water and power supply and a terrorist strike on Folsom Dam would have immediate and serious effects on power generation and water supplies and could release up to one million acre-feet of water stored in Folsom Lake, resulting in debilitating floods; and

WHEREAS, Well reported cases of terrorist connections to a mosque in Lodi and the radicalization of inmates at Folsom Prison are examples of some of the threats to the Sacramento region and support the need for continued UASI funding; and

WHEREAS, San Diego is the second largest city in California and is the nation's seventh largest city; and

WHEREAS, The San Diego region is home to the San Onofre nuclear powerplant, the Port of San Diego, and several critical military bases, including Camp Pendleton, San Diego Naval Station, Marine Corps Air Station Miramar, and North Island Naval Air Station; and

WHEREAS, One-third of the U.S. Naval Pacific Fleet is home ported in San Diego Bay, including nuclear carriers and nuclear submarines; and

WHEREAS, Even though some have said that the region's military presence is a deterrent to terrorist attacks and therefore the region is not considered vulnerable, we cannot forget that terrorists have already succeeded in attacking the Pentagon and have consistently attacked military bases overseas, including the USS Cole; and

WHEREAS, The port of entry at San Ysidro on the border with Mexico is the busiest in the world, with approximately 50 million people crossing through it into the United States every year; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the California Legislature joins Governor Arnold Schwarzenegger and certain members of the California Congressional delegation in calling upon the U.S. Department of Homeland Security to revisit its calculation of risk for these two critical regions of the state to ensure their inclusion in future Urban Area Security Initiative grant programs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 79

Senate Joint Resolution No. 30—Relative to alcoholic beverages.

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

WHEREAS, Wine is California's number one finished agricultural product, and grapes rank among the state's top agricultural products, and 90 percent of all American wines are made in California; and

WHEREAS, California wineries shipped an estimated total of 260,000,000 cases of wine in 2004; and

WHEREAS, The California wine industry contributes more than $45 billion to the state's economy, and employs more than 200,000 people; and

WHEREAS, The wine industry creates additional jobs in other industries which support wine production, including businesses that service and supply the industry, those which distribute the product at the wholesale and retail levels, and tourism in California's wine producing regions; and

WHEREAS, There are over 1,367 wineries and more than 4,805 grape growers in California; and

WHEREAS, The growth of the wine industry and its ability to compete globally depends on a business climate that fosters success; and

WHEREAS, The innovation and spirit of small producers drives the entire industry to improve and progress; and

WHEREAS, California receives $1.9 billion in taxes and other business licenses and fees, and the federal government, other states, and local municipalities collect an additional $3.7 billion in tax revenue per year from the California wine industry; and

WHEREAS, There are nearly 4,000 wineries in the United States; and

WHEREAS, There are wineries in all 50 states; and

WHEREAS, At the end of the Prohibition era, the Twenty-first Amendment to the United States Constitution was enacted, which permits each state to regulate the sale and distribution of alcoholic beverage products within its borders; and

WHEREAS, The purpose of the Twenty-first Amendment was to allow each state to enact laws that were responsive to local sensibilities, but preserved interstate commerce; and

WHEREAS, The May 16, 2005, United States Supreme Court decision Granholm v. Heald resolved the question, "Does a State's regulatory scheme that permits in-state wineries directly to ship alcohol to consumers but restricts the ability of out-of-state wineries to do so violate the dormant Commerce Clause in light of § 2 of the Twenty-first Amendment?"; and

WHEREAS, The United States Supreme Court held in Granholm v. Heald that "the States have broad power to regulate liquor under § 2 of the Twenty-first Amendment. This power, however, does not allow States to ban, or severely limit, the direct shipment of out-of-state wine while simultaneously authorizing direct shipment by in-state producers. If a State chooses to allow direct shipment of wine, it must do so on evenhanded terms. Without demonstrating the need for discrimination, New York and Michigan have enacted regulations that disadvantage

out-of-state wine producers. Under our Commerce Clause jurisprudence, these regulations cannot stand."; and

WHEREAS, In order to reach consumers in other states, many small- and medium-sized California wineries have turned to direct marketing and shipping of their wines to consumers in other states; and

WHEREAS, These wineries have offered voluntarily to have their direct marketing and shipping regulated by other states to ensure that those states collect the same taxes that wines sold through the three-tier system must pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in "dry" areas, as defined under the laws of each state; and

WHEREAS, California expeditiously enacted a law to open direct shipping of wine to consumers without limitation through a simple permit system to comply with the requirements of Granholm v. Heald; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests the Governor and Legislature of each of the other 49 states to swiftly enact legislation that permits wineries in their state, and wineries in the other 49 states to ship wines to consumers in their state on equal terms without discrimination by size or other criteria, and that provides for the uncomplicated collection of applicable state taxes and reporting from all wineries that ship products directly into the state to their customers; and be it further

Resolved, That the Legislature respectfully requests the Governor and Legislature of each of the other 49 states to enact legislation that promotes commerce by maximizing statutory and regulatory uniformity and simplicity for direct-to-consumer wine sales between the states and minimizing the expense and complexity of shipping wine from wineries directly to consumers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor and presiding officers of each house of the Legislature of each state.

RESOLUTION CHAPTER 80

Senate Joint Resolution No. 32—Relative to Amyotrophic Lateral Sclerosis Awareness Month.

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

WHEREAS, Amyotrophic lateral sclerosis (ALS) is better known as Lou Gehrig's disease; and

WHEREAS, ALS is a fatal neurological disease characterized by degeneration of nerve cells of the body's voluntary muscles; and

WHEREAS, ALS is one of the most common neuromuscular diseases worldwide, affecting people of all races and backgrounds; and

WHEREAS, The onset of ALS is so slight that the symptoms are often ignored. Early symptoms may include twitching, cramping, muscle weakness, slurred speech, and difficulty swallowing; and

WHEREAS, ALS does not affect a person's mind, personality, or intelligence. Nor does it affect a person's ability to see, smell, taste, or hear; and

WHEREAS, There exists no single test providing a definitive diagnosis. An ALS diagnosis is based on an evaluation of symptoms and a series of tests to rule out other diseases; and

WHEREAS, ALS occurs in adulthood, most commonly between 40 to 70 years of age and affects men two to three times more often than women; and

WHEREAS, Over 5,000 new ALS patients diagnosed annually in the United States, with an estimated 680 new cases each year being diagnosed in California; and

WHEREAS, On average, patients diagnosed with ALS survive only two to five years from the time of diagnosis; and

WHEREAS, In 90% to 95% of all ALS cases, the disease occurs at random with no known cause or risk factors; and

WHEREAS, Research is focusing on finding the cause or causes of and stopping nerve cell degeneration, with researchers remaining optimistic that ALS studies will eventually lead to effective treatments for ALS; and

WHEREAS, Amyotrophic Lateral Sclerosis Awareness Month increases the public's awareness of ALS patients' circumstances and acknowledges the terrible impact this disease has, not only on the patient, but on his or her family as well, and recognizes the research being done to eradicate this horrible disease; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature hereby proclaims the month of May 2006 and in each year thereafter, as Amyotrophic Lateral Sclerosis Awareness Month in California, to coincide with the National Amyotrophic Lateral Sclerosis Awareness Month; and be it further

Resolved, That the Legislature of the State of California memorializes the President and Congress of the United States to enact legislation to provide additional funding for research in order to find a treatment and eventually a cure for amyotrophic lateral sclerosis; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, each Senator and Representative from California in the Congress of the United States, and the United States Secretary of Health and Human Services.

RESOLUTION CHAPTER 81

Senate Concurrent Resolution No. 125—Relative to National Day of the Cowboy.

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

WHEREAS, July 22, 2006, has been designated National Day of the Cowboy to honor those pioneering men and women, recognized as cowboys, who helped establish the American West; and

WHEREAS, That cowboy spirit continues to infuse the nation with its solid character, sound family values, and good common sense; and

WHEREAS, The cowboy embodies honesty, integrity, courage, compassion, respect, patriotism, and a strong work ethic, and continues to play a significant role in America's culture and economy; and

WHEREAS, The cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment; and

WHEREAS, Approximately 800,000 ranchers are conducting business in all 50 states and are contributing to the economic well-being of nearly every county in the nation; and

WHEREAS, Rodeo is the sixth most watched sport in America and membership in rodeo, and other organizations surrounding the livelihood of a cowboy, transcends race and gender and spans every generation; and

WHEREAS, The cowboy is an American icon and to recognize the cowboy is to acknowledge America's ongoing commitment to the esteemed and enduring code of conduct; and

WHEREAS, The ongoing contributions made by cowboys to their communities deserve recognition and encouragement; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the attention of the public be drawn to the numerous contributions of the cowboy, and that July 22, 2006, be recognized as National Day of the Cowboy; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 82

Assembly Concurrent Resolution No. 65—Relative to Kristopher's Crossing.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Nine year old Kristopher Charles Turner lived with his mother, Susan Mackey, and with his two brothers and one sister in Oakhurst, California; and

WHEREAS, Kristopher was in the third grade at Oakhurst Elementary School; and

WHEREAS, Kristopher was a funny, intelligent child and was deeply loved by his family and friends; and

WHEREAS, Kristopher loved to fish; and

WHEREAS, Kristopher was reported missing on May 23, 2004, and his murdered body was discovered later that day inside a concrete culvert under a bridge that crosses the Fresno River, Department of Transportation Bridge 4122; and

WHEREAS, A memorial service was held for Kristopher on May 28, 2004, at the Sierra Funeral Chapel; and

WHEREAS, Renaming the bridge under which Kristopher's body was found Kristopher's Crossing reflects the boy's crossing over to a better place; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates Department of Transportation Bridge 4122, in Madera County, as Kristopher's Crossing; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 83

Assembly Concurrent Resolution No. 97—Relative to Alex Madonna Memorial Highway.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Alex Madonna was born in 1918 in a house that was on property that is now a part of Camp San Luis Obispo; and

WHEREAS, Alex Madonna, by the age of five, after losing his father and brother, lived with his mother and older sister near the Mission San Luis Obispo; and

WHEREAS, Alex Madonna graduated from San Luis Obispo High School in 1937; and

WHEREAS, Alex Madonna, while still in high school, started a construction company with a Model T Ford truck and a pick and shovel; and

WHEREAS, Alex Madonna married Phyllis Boyd in 1949, and together they had four children, Cathie, John, Karen, and Connie; and

WHEREAS, Alex Madonna opened the world famous Madonna Inn in San Luis Obispo in 1958; and

WHEREAS, Alex Madonna built the San Luis County Regional Airport; and

WHEREAS, Alex Madonna completed work on many projects involving the construction of State Highway Route 101 within the County of San Luis Obispo; and

WHEREAS, These projects included grading and plant mixed surfacing of State Highway Route 101 from one mile south of Templeton to Paso Robles, construction of five bridges and pedestrian undercrossings on State Highway Route 101 from 1.5 miles west of Santa Margarita to Atascadero, resurfacing and installing pavement markers on State Highway Route 101 from the Vineyard Drive Overcrossing to the South Paso Robles Overhead, and ramp repair on State Highway Route 101 at Atascadero Creek; and

WHEREAS, Alex Madonna's construction company built a good portion of State Highway Route 101 from Salinas to Buellton and repaved portions of State Highway Routes 1, 41, and 46; and

WHEREAS, Alex Madonna built the final stretch of Interstate 5 that connected Canada and Mexico; and

WHEREAS, Alex Madonna built a bridge on State Highway Route 58 and State Highway Route 166; and

WHEREAS, Alex Madonna was very generous to people in need, while also supporting and contributing to local charities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the portion of State Highway Route 101 from the Madonna Road exit in San Luis Obispo to the Santa Barbara Road exit in south Atascadero as the Alex Madonna Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 108—Relative to Crynthia and Erling Hjertager Memorial Highway and the Erling Hjertager Memorial Bridge.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Crynthia and Erling Hjertager were two exceptionally generous individuals who continuously and unreservedly contributed to the community of Scott Valley over a period of fifty years; and

WHEREAS, Crynthia and Erling Hjertager donated their time and capital to the community of Scott Valley in times of dire need and emergency; and

WHEREAS, Erling Hjertager was known to personally fly individuals, at a moments notice and free of charge, to San Francisco that were in need of medical attention; and

WHEREAS, Erling Hjertager was a successful entrepreneur and owner of a sawmill that employed many in the County of Siskiyou and provided an incredible amount of lumber to the World War II effort; and

WHEREAS, Crynthia and Erling Hjertager were true community leaders that headed the Boy Scouts, sponsored local basketball teams, lead the Masonic society, anonymously donated to numerous charities, and delivered wood to the elderly during the winter season; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the contributions of Crynthia and Erling Hjertager and designates the portion of State Highway Route 3 between Callahan at post-mile 8.8 and Etna at post-mile 19.7 in the

County of Siskiyou as the Crynthia and Erling Hjertager Memorial Highway; and be it further

Resolved, That the Legislature renames the Wildcat Creek Bridge at post-mile 9.75 on State Highway Route 3 in the County of Siskiyou as the Erling Hjertager Memorial Bridge; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting appropriate signs, consistent with the signing requirements for the state highway system, showing these special designations, and upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and the author for appropriate distribution.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 116—Relative to state employee merit awards.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Section 19823 of the Government Code authorizes the Department of Personnel Administration to make awards to current or retired state employees who propose procedures or ideas that are subsequently adopted and placed in effect and result in eliminating or reducing state expenditures or improving state operations; and

WHEREAS, Any award granted under Section 19823 of the Government Code in excess of $5,000 must be approved by concurrent resolution of the Legislature; and

WHEREAS, Chuck Walker, an analyst at the Department of General Services responsible for the review of vendor contracts, suggested refinancing an unpaid balance of $5,165,386 at a lower interest rate using the online California GS $Mart Program, which resulted in a savings over the duration of the purchase term of $537,948; and

WHEREAS, Jeremiah Cronk, a program technician at the Department of Personnel Administration, who is responsible for the review and processing of forms, developed an Excel spread sheet to automate difficult calculations of an individual's total state service, which resulted in a first-year savings of $74,634; and

WHEREAS, Gregory Gordon, a medical technical assistant at the Department of Corrections and Rehabilitation, who assists medical and dental officers in medical examinations, developed a standardized

clearance policy medical questionnaire and annual culinary medical clearance of inmate food handlers that resulted in first-year savings of $90,018; and

WHEREAS, The savings generated by implementation of these suggestions will continue to be realized on an annual basis; and

WHEREAS, As a result of actual savings generated from the implementation of these suggestions, it is unnecessary to appropriate additional funds for payment of awards to these employees; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares that merit award payments, authorized by the five-member Merit Award Board and the Department of Personnel Administration, are hereby made in amounts up to and including 10 percent of the first-year savings generated by each suggestion, as follows:

(a) To Chuck Walker in the amount of $26,897.

(b) To Jeremiah Cronk in the amount of $7,463.

(c) To Gregory Gordon in the amount of $9,002; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Controller and the Department of Personnel Administration.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 117—Relative to music education.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, The Star-Spangled Banner was adopted as the national anthem of the United States in 1931 by an Act of Congress; and

WHEREAS, A 2004 Harris Interactive Survey discovered that of men and women 18 years of age and older, 61 percent of those surveyed did not know all the lyrics of the national anthem. Of those who answered the question regarding specific lyrics correctly, 58 percent had received at least five years of music education while growing up. An ABC News poll revealed that more than one in three Americans, 38 percent, do not know that the official name of the national anthem is the Star-Spangled Banner, less than 35 percent of American teens can name Francis Scott Key as the composer of the national anthem, and as few as 15 percent of American youth can sing the words to the anthem from memory; and

WHEREAS, Educational institutions play a primary role in educating and protecting American culture, as do the music educators tasked with teaching American children songs like the national anthem; and

WHEREAS, The National Association for Music Education has taken a lead role in promoting the national anthem through the National Anthem Project; and

WHEREAS, The California Association for Music Education, the California Arts Advocates, and the California Alliance for Arts Education support the National Anthem Project; and

WHEREAS, The United States Conference of Mayors urges participation in the National Anthem Project; and

WHEREAS, The supporters of this resolution urge all performers, institutions, and educators to participate in the National Anthem Project by educating the public, issuing proclamations in support of the project, and encouraging and leading the public toward participation in the project; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby urges communities, schools, and individual citizens to support the National Anthem Project through school and community events to teach the national anthem, and commends music educators and other teachers for their efforts to teach our musical heritage; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 124—Relative to the Harry Crabb Tunnel.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Former Roseville Mayor Harry Crabb retired in 2000, after 20 years of service as a city council member for the City of Roseville; and

WHEREAS, Harry Crabb served on the Roseville City Council from April 1980 to April 1984. He was elected again in 1984 and served until 1987. Harry Crabb was reelected to the council in November 1989 and completed the term, which ended in November 1993. Harry Crabb was elected to serve on the council again from November 1993 to November 1996 to fill the unexpired term of Fred A. Jackson. In December 1996,

Harry Crabb was reelected to the council and served until his retirement in November 2000; and

WHEREAS, During his 20 years on the Roseville City Council, Harry Crabb was a tireless supporter of the City of Roseville; and

WHEREAS, Harry Crabb also served as Mayor of the City of Roseville on four separate occasions for a total of six years; and

WHEREAS, Prior to becoming an elected city council member, Harry Crabb also served four years on the Roseville Project Review Commission and six years on the Roseville Planning Commission; and

WHEREAS, As a member of those planning bodies, Harry Crabb reviewed projects to ensure they met Roseville's high standards required for new growth and that they complemented the community with necessary parks, libraries, community centers, police and fire stations, and made certain the city would continue to provide reliable electric, water, sewer, and solid waste services; and

WHEREAS, Due to his experience working with the Department of Transportation, Harry Crabb also understood the importance of having well planned roads. He knew roads were needed to connect all the things that make Roseville a wonderful place to live; and

WHEREAS, The intersection of Douglas Boulevard and Sunrise Boulevard is Roseville's busiest intersection with more than 100,000 vehicles passing through it daily; and

WHEREAS, The City of Roseville began planning more than 15 years ago to improve circulation through the intersection; and

WHEREAS, In anticipation of funding future road improvement projects, the Roseville City Council began collecting traffic mitigation fees from developers building in the City of Roseville; and

WHEREAS, The City of Roseville's Traffic Mitigation Fund, along with state and federal funds, provided funding for the construction of the $35 million Douglas Boulevard-Interstate 80 project; and

WHEREAS, Staff with the Department of Transportation, the Placer County Transportation Planning Agency, and the City of Roseville designed an improvement plan that not only includes on and off ramps, but also provides a dedicated access for motorists trying to get to eastbound Interstate 80 from Sunrise Boulevard; and

WHEREAS, The Douglas Boulevard-Interstate 80 project will reduce the number of vehicles using the intersection of Douglas Boulevard and Sunrise Boulevard by 15,000 vehicles daily; and

WHEREAS, The City of Roseville, along with state and local officials, celebrated the opening of the Douglas Boulevard-Interstate 80 project at a special event on December 16, 2005; and

WHEREAS, Due to Harry Crabb's dedicated service, Roseville remains a vibrant and desirable place to live and work; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the contributions of Harry Crabb and designates the dedicated access enabling motorists to enter eastbound Interstate 80 from Sunrise Boulevard, in the County of Placer, as the Harry Crabb Tunnel; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 150—Relative to Amyotrophic Lateral Sclerosis (ALS).

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Amyotrophic Lateral Sclerosis (ALS), commonly known as Lou Gehrig's disease, is a progressive disease that occurs when motor nerve cells in the central nervous system cease functioning and die; and

WHEREAS, Each year over 5,000 people in the United States are diagnosed with this illness, for which there is no known cause or cure. Currently, there are more than 150 patients in Orange County that have been diagnosed with the disease; and

WHEREAS, In the advanced stages, care for a patient with ALS can cost up to $200,000 per year, thus depleting the financial resources of many patients and their families; and

WHEREAS, The suffering of patients with ALS, and the anguish and struggles of caregivers of ALS patients should be supported and alleviated as much as possible; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 2006, be proclaimed as ALS Awareness Month in California, and all citizens are urged to become educated about ALS, and to lend their aid in combating the disease by all means possible; and be it further

Resolved, That the Chief Clerk of the Assembly transmit sufficient copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 89

Assembly Joint Resolution No. 25—Relative to veterans.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, The United States presently has a population of over 25 million veterans from its previous wars. The majority of that veteran population is from World War II, the Korean War, and the Vietnam War; and

WHEREAS, The United States shall have a new generation of veterans as a result of the War on Terror and the conflicts in Afghanistan and Iraq; and

WHEREAS, The World War II and Korean War veteran population is presently over 70 years of age, and that group is passing away at the rate of 1,000 veterans per day; and

WHEREAS, The United States government has acknowledged its responsibility to provide medical care or compensation for medical problems, as well as other benefits, to those veterans who served their country in time of war; and

WHEREAS, The United States Department of Veterans Affairs is charged with administering the federal benefits program for veterans; and

WHEREAS, When a veteran passes away with a claim pending against the Department of Veterans Affairs, the claim essentially ends with the veteran's passing regardless of how long the claim had been pending; and

WHEREAS, Dying while waiting is unacceptable for American veterans; and

WHEREAS, There presently exists a backlog of over 500,000 claims submitted by veterans. This backlog has persisted for several years, with some claims outstanding for one year or more; and

WHEREAS, A significant portion of these claims involve World War II and Korean War veterans, and despite determined efforts by the United States Department of Veterans Affairs to eliminate this backlog, the backlog continues; and

WHEREAS, There exists a trained group of individuals known as county veterans service officers located in 37 of the 50 states,

representing 700 counties and a workforce of over 2,400 full-time local government employees; and

WHEREAS, These county veterans service officers were established in 1945 after World War II for the purpose of helping returning veterans reenter civilian life, and have continued to do so for all veterans of all wars since then; and

WHEREAS, These county veterans service officers are highly trained individuals who have continued to provide assistance to all veterans for over 50 years and are already familiar with the United States Department of Veterans Affairs claims policies and procedures; and

WHEREAS, For example, in California, county veterans service officers annually assist California's veterans obtain monetary benefits in excess of $150 million by assisting these veterans in filing over 50,000 claims annually with the United States Department of Veterans Affairs; and

WHEREAS, This claims processing backlog needs to be urgently reduced while our World War II and Korean War veterans are still with us; and

WHEREAS, The United States Department of Veterans Affairs could enter into a partnership with state and local governments to utilize these highly trained county veterans service officers to eliminate the present claims processing backlog, by expanding the county veterans service officers' role; and

WHEREAS, This would be a cost-effective way of reducing the claims processing backlog by eliminating the need for a substantial increase in federal employees; and

WHEREAS, These county veterans service officers, as represented by the California Association of County Veterans Service Officers and the National Association of County Veterans Service Officers, have offered to assist the United States Department of Veterans Affairs in exchange for block grants to the various states based upon each state's veteran population to compensate county veterans service officers for their expanded role; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States and the President to support and enact legislation such as HR 616 that would establish a federal-state partnership to use the knowledge and skills of the local county veterans service officers to assist the United States Department of Veterans Affairs in eliminating the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for them for their faithful and loyal service to a grateful nation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 90

Assembly Joint Resolution No. 45—Relative to farming.

[Filed with Secretary of State July 11, 2006.]

WHEREAS, Fruit, vegetable, and tree nut production in the United States accounts for $35 billion in farmgate value, or 33 percent of farm cash receipts, and with the addition of nursery and greenhouse production, overall specialty crops account for 51 percent of farmgate value; and

WHEREAS, In California, fruit, vegetable, and tree nut production represents a $19 billion dollar industry representing over 37 percent of California's farm cash receipts; and

WHEREAS, The fruit, vegetable, and tree nut industry is a critical and growing component of U.S. agriculture, deserving of full and equal consideration with other agricultural sectors in the 2007 Farm Bill; and

WHEREAS, The fruit, vegetable, and tree nut industry does not seek direct program payments to growers, but rather places its emphasis on building the long-term competitiveness and sustainability of U.S. fruit and vegetable production; and

WHEREAS, Government investment in the competitiveness and sustainability of the U.S. fruit and vegetable industry will produce a strong return on investment for all Americans, not just farmers, by expanding access and availability of safe, wholesome, healthy, and affordable fruits and vegetables, and in that the 2007 Farm Bill will be a critical component in reaching the mandate of doubling fruit and vegetable consumption called for in the Dietary Guidelines for Americans published by the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA); and

WHEREAS, With California's mandates that growers must meet the very strictest environmental, labor, and other standards in the world, comes the responsibility to help those producers achieve cost-effective compliance through government investment in the agriculture industry to create a fair, level playing field with international competitors who do not face these regulatory burdens; and

WHEREAS, Without appropriate assistance, U.S. fruit, vegetable, and tree nut producers will be increasingly compelled to invest in less restrictive foreign growing areas; and

WHEREAS, A thriving and competitive U.S. fruit, vegetable, and tree nut industry will support strong growth in export markets and improve our agricultural balance of trade in order to realize the goal of increasing exports; and

WHEREAS, It is critical that federal policy and resources support efforts to remove the many existing international trade barriers that continue to block U.S. fruit, vegetables, and tree nut exports; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That, by adoption of this resolution, the Legislature hereby encourages the Congress of the United States to recognize the importance of the Specialty Crop Industry in the development of the 2007 Farm Bill, and support the priorities of the Specialty Crop Industry in the 2007 Farm Bill; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 91

Senate Concurrent Resolution No. 73—Relative to the California Task Force on Youth and Workplace Wellness.

[Filed with Secretary of State August 11, 2006.]

WHEREAS, The State of California is currently facing a growing obesity crisis in which 60 percent of all adults are overweight, 75 percent of children are unfit, and 25 percent of children are overweight; and

WHEREAS, Healthy workplace and school environments can greatly enhance the quality of life for California workers, children and their families, prevent burnout and illness, and enhance productivity of California businesses and students; and

WHEREAS, Corporate America traditionally overlooks the importance of employee well-being in relation to the work environment; and

WHEREAS, California's schools often present a model of eating and activity that is incongruent with the healthy habits encouraged in health, nutrition, and physical education; and

WHEREAS, Californians' obesity and overweight rates are leading to an epidemic of Type II Diabetes (formerly known as Adult Onset Diabetes) among children and adults, with projections that one in three children born in 2006 will contract the disease; and

WHEREAS, The current rates of overweight, inactivity, obesity, and diabetes are costing California over 21 billion dollars each year in health costs and lost productivity; and

WHEREAS, A legislative task force is necessary to provide a framework and support to help California companies evolve to a more holistic, long-term approach to employees and working conditions; and

WHEREAS, A legislative task force is necessary to provide a framework and support to California's schools in order to create healthier education environments; and

WHEREAS, The California Task Force on Youth and Workplace Wellness was created in 2001 by SCR 40 and SCR 99 to promote fitness and health in the Legislature, schools, and workplaces; and

WHEREAS, The California Task Force on Youth and Workplace Wellness has successfully elevated the profile of fitness in the California Legislature, in schools and workplaces statewide, and has created programs such as the Superintendent's Challenge and California Fit Business Award to continue encouraging healthy eating and activity environments for all Californians; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Task Force on Youth and Workplace Wellness is hereby continued to promote fitness and health in the Legislature, schools, and workplaces; and be it further

Resolved, That the task force shall be comprised of Members of the Legislature and experts as follows:

(a) The task force shall have 20 voting members, with additional advisory members and alternates as requested or needed.

(b) The Speaker of the Assembly shall appoint two Members from the Assembly, and the Senate Committee on Rules shall appoint two Members from the Senate. Additionally, both the Speaker of the Assembly and the Senate Committee on Rules shall each appoint alternate members from the Assembly and from the Senate.

(c) Additionally, both the Speaker of the Assembly and the Senate Committee on Rules shall each appoint members, from each of the following categories:

(1) Two members from the field of education.

(2) Two members from the field of industry or business.

(3) Two members from the field of health.

(4) One member from the field of fitness; and be it further

Resolved, That two "youth representatives" and two alternates between the ages of 15 and 19 will be appointed as voting members of the task force by the Statewide Youth Advisory Board on Obesity, and approved by the task force chair, for one-year terms, concurrent with the academic school year; and be it further

Resolved, That the Members of the Legislature who serve on the task force shall serve only to the extent that their service is consistent with their duties as Members of the Legislature; and be it further

Resolved, That the Senate Committee on Rules shall name the chair of the task force; and be it further

Resolved, That members of the task force shall be at-will appointees serving at the pleasure of the Senate Committee on Rules and the Speaker of the Assembly and shall be appointed before July 1, 2006; and be it further

Resolved, That the members of the task force shall conduct the business of the task force on a volunteer basis and shall not receive a salary for services nor be reimbursed for travel and other expenses incurred in the performance of their duties as task force members; and be it further

Resolved, That the task force shall have all of the following duties:

(a) To meet twice a year to discuss strategies. The task force shall strive to generate media and public interest in the activities of the task force and its annual meetings in a manner that elevates the importance of healthy and fit schools and workplaces in the minds of all Californians.

(b) To support the existing task force Internet Web site, and to publicize the task force mission statement and inform visitors of resources available to California citizens, schools, and companies. Features shall include a library of wellness tips, a downloadable wellness handbook, case studies of successful school and corporate wellness programs, including individual success stories, and biographies of task force members.

(c) To generate media and legislative attention for the task force and increase awareness of wellness issues.

(d) To submit a report on the work of the task force to the Legislature on or before June 30, 2008; and be it further

Resolved, That the task force shall create two subcommittees, one on youth wellness, and another on corporate wellness, to specialize work and expertise. Other subcommittees may be created as the members of the task force deem appropriate. Each subcommittee shall report on its work and findings to the entire task force; and be it further

Resolved, That the task force is authorized to accept private funds and in-kind donations to pay expenses incurred in conducting its business. These expenses include, but are not limited to, staff, administrative, meeting, and publication expenses; and be it further

Resolved, That the task force shall cease to exist on July 1, 2010, unless a later enacted resolution that is enacted before that date deletes or extends that date.

RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 93—Relative to California Highway Patrol Officers James E. Pence, Jr., Roger D. Gore, Walter C. Frago, and George M. Alleyn Memorial Highway.

[Filed with Secretary of State August 11, 2006.]

WHEREAS, The calling to be a peace officer is one of the highest vocations of public service, and any individual who accepts this calling is worthy of the highest respect and honor the community, state, and nation can provide; and

WHEREAS, Californians are indebted every day to our peace officers, and we pay special tribute to their bravery and dedication and share in their pain when one of their members is killed in the line of duty; and

WHEREAS, California Highway Patrol Officer James E. Pence, Jr., badge number 6885, was killed in the line of duty in the early morning hours of April 6, 1970, by armed assailants during a traffic enforcement stop in Newhall; and

WHEREAS, California Highway Patrol Officer Roger D. Gore, badge number 6600, was killed in the line of duty in the early morning hours of April 6, 1970, by armed assailants during a traffic enforcement stop in Newhall; and

WHEREAS, California Highway Patrol Officer Walter C. Frago, badge number 6573, was killed in the line of duty in the early morning hours of April 6, 1970, by armed assailants during a traffic enforcement stop in Newhall; and

WHEREAS, California Highway Patrol Officer George M. Alleyn, badge number 6290, was killed in the line of duty in the early morning hours of April 6, 1970, by armed assailants during a traffic enforcement stop in Newhall; and

WHEREAS, These California Highway Patrol Officers made significant contributions to traffic safety and to the motoring public while assigned to the Newhall Area Office; and

WHEREAS, These California Highway Patrol Officers were known by their fellow officers for their dedication to the Department of the California Highway Patrol and to the protection of the citizens of our state; and

WHEREAS, These California Highway Patrol Officers are uniquely remembered by their colleagues as their sacrifice initiated reforms that ultimately made the Department of the California Highway Patrol stronger, wiser, and more resolute; and

WHEREAS, It is appropriate to recognize the hazardous work, serious responsibilities, and strong commitment that these California Highway Patrol Officers willingly accepted during their tenure as law enforcement officers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the portion of State Highway Route 5 between the Rye Canyon Road overcrossing and Magic Mountain Parkway in the County of Los Angeles as the California Highway Patrol Officers James E. Pence, Jr., Roger D. Gore, Walter C. Frago, and George M. Alleyn Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 93

Senate Concurrent Resolution No. 95—Relative to the Officer Richard Hyche Memorial Freeway.

[Filed with Secretary of State August 11, 2006.]

WHEREAS, Officer Richard Hyche, a four-year veteran of the Ontario Police Department and 31 years of age, was fatally wounded on October 15, 1975, and at the time was the first Ontario police officer killed in the line of duty since 1957; and

WHEREAS, Richard Hyche was born on April 27, 1944, in Long Beach, served in the United States Marine Corps, attended the San Bernardino County Sheriff's Academy, worked at the Glenn Helen Maximum and Minimum County Jail Facility for two years, and was hired as a police officer by the Ontario Police Department on July 23, 1971; and

WHEREAS, Officer Hyche received an Associate of Arts degree from Chaffey College in 1973; and

WHEREAS, Officer Hyche was killed by a single gunshot by a suspect being sought in connection with a murder that had occurred the previous day at the Pepper Tree Motel, upon Officer Hyche responding to a sighting of the suspect near an apartment complex; and

WHEREAS, The suspect was later convicted and sentenced to life in state prison, and subsequently escaped from prison, fled to Montana, and was eventually killed after a deadly crime spree; and

WHEREAS, Officer Hyche is survived by his wife Karen, and children Darryn, Tracey, and Bryan; and

WHEREAS, Officer Hyche is still remembered today by former supervisors and colleagues as an excellent officer who was always outgoing and friendly, who enjoyed his work as a police officer, and who had a strong commitment to his fellow officers; and

WHEREAS, It is therefore appropriate to commemorate in his honor a portion of State Highway Route 10 (Interstate 10) in the City of Ontario that adjoins the neighborhood where Officer Hyche was killed while serving his community; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 10 (Interstate 10) in the City of Ontario between the 6th Street overcrossing and the intersection of Euclid Avenue shall be known as the Officer Richard Hyche Memorial Freeway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 94

Senate Joint Resolution No. 23—Relative to veterans.

[Filed with Secretary of State August 11, 2006.]

WHEREAS, Between 1962 and 1974 the Department of Defense carried out Project 112 and the Shipboard Hazard and Defense Project

(Project SHAD), chemical and biological warfare testing projects, until President Nixon halted all biochemical testing; and

WHEREAS, The Department of Defense acknowledges that 134 tests were planned and 50 executed. Nineteen of these tests were conducted at sea, primarily in the South Pacific and off the coast of Hawaii, and 31 were conducted on land, in Hawaii, the Panama Canal Zone, and Alaska; and

WHEREAS, The tests were conducted on approximately 6,000 unknowing American military personnel, who, during these tests, were exposed to a variety of biological and chemical agents. Most of these tests used simulants, like Bacillus globigii, whose molecular structure is similar to anthrax. Some tests, however, used "hot" agents, like VX nerve gas, Sarin gas, Q Fever, and tularemia; and

WHEREAS, While some knowledge has been gained about the tests since they became public knowledge, key pieces of information are still being withheld, including the dosage levels involved and the identities of the exposed veterans; and

WHEREAS, In an effort to fully understand the extent of these tests and to provide exposed veterans with proper medical care, United States Representatives Mike Thompson and Denny Rehberg have introduced the Veterans' Right to Know Act (H.R. 4259); and

WHEREAS, The Veterans' Right to Know Act creates a 10-member, bipartisan commission to investigate the chemical or biological warfare tests carried out under Project 112 and Project SHAD and related tests and to provide full notification through the United States Department of Veterans Affairs to those veterans exposed to the tests so that they may receive medical treatment and any potential service-related disability compensation; and

WHEREAS, The Veterans' Right to Know Act has received the endorsement of a variety of veterans' service organizations, including the American Legion, the Blinded Veterans Association, the Disabled American Veterans, the Military Officers Association of America, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Veterans of Foreign Wars, and the Vietnam Veterans of America; and

WHEREAS, In the words of Vietnam Veterans of America National President, the Veterans' Right to Know Act will "bring the first true measure of justice to potentially tens of thousands of veterans who were subject to toxic exposures in the performance of their military duties"; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully urges the House of Representatives of the Congress of the United States to

support and pass the Veterans' Right to Know Act to bring relief to veterans involved in Project 112 and Project SHAD and other instances of chemical or biological testing; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Representative in the Congress of the United States.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 68—Relative to the Vietnam Veterans Memorial Highway.

[Filed with Secretary of State August 15, 2006.]

WHEREAS, The Veterans of the Vietnam War, Inc. and The Veterans Coalition welcomes members from all branches of service, Navy, Marines, Army, Air Force or Coast Guard, from all eras, wars and conflicts and its services are available to all veterans and military; and

WHEREAS, The Department of Veterans Affairs recognized The Veterans of the Vietnam War, Inc. as a Veterans Service Organization on April 17, 1995; and

WHEREAS, The Bakersfield Post of The Veterans of the Vietnam War, Inc. was established in 1993; and

WHEREAS, The first Commander was Barney Cadena and The Bakersfield Post of The Veterans of the Vietnam War, Inc. was named in his honor in April 2004; and

WHEREAS, The Bakersfield Post of The Veterans of the Vietnam War, Inc. is active in assisting veterans of any war with emergency funds, filing veteran's claims, and raising awareness of veteran's concerns in the local community. The Bakersfield Post of The Veterans of the Vietnam War, Inc. has participated in an annual canned food drive to assist homeless veterans; and

WHEREAS, The members of The Bakersfield Post of The Veterans of the Vietnam War, Inc. have been involved in the Kern County Honor Guard for veteran's funerals and have attended over 750 funerals in the past year; and

WHEREAS, It is appropriate at this time to recognize the strong commitment and courage demonstrated by veterans of the Vietnam War; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby honors Vietnam veterans everywhere and designates the portion of State Highway Route 119

between State Highway Route 184 and Enos Lane, in the County of Kern, as the Vietnam Veterans Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signage requirements for the state highway system, showing this special designation, and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 72—Relative to the Vernon L. Sturgeon Memorial Highway, and to the Marilyn Jorgenson Reece Memorial Interchange.

[Filed with Secretary of State August 15, 2006.]

WHEREAS, Vernon L. Sturgeon was born on October 1, 1915, in Chandler, Arizona, and was one of 10 children born to George and Josephine Sturgeon; and

WHEREAS, Vernon L. Sturgeon attended schools in Paso Robles and followed in his father's footsteps as a milk distributor in San Luis Obispo County for 20 years; and

WHEREAS, Vernon L. Sturgeon served on the Paso Robles City Council for eight years and as the Mayor of the City of Paso Robles for three years; and

WHEREAS, In 1961, Vernon L. Sturgeon was elected to the State Senate for Senate District 29, and served in the Legislature until 1966, when that district was reapportioned; and

WHEREAS, In 1966, Senator Vernon L. Sturgeon became a key advisor to Governor Ronald Reagan and, in 1967, became the Governor's Legislative Liaison Officer, and also served as Chief Deputy Director of the Department of Public Works; and

WHEREAS, Senator Vernon L. Sturgeon was appointed by Governor Reagan to the Public Utilities Commission in 1969, and was later reappointed by Governor Jerry Brown, making him one of the few people to be appointed to the same position by both governors. Senator Vernon L. Sturgeon served on the commission until 1979, which included a three-year term as president of the commission; and

WHEREAS, Senator Vernon L. Sturgeon was a philanthropist who, while a milk distributor, provided milk to those who could not afford to pay for it; and

WHEREAS, Senator Vernon L. Sturgeon played a significant role in securing the temporary site for the original Cuesta College, and was instrumental in securing funds for a number of projects at California Polytechnic State University, San Luis Obispo. Also, through his efforts, the library at Hearst Castle was made available to University of California students for research; and

WHEREAS, Senator Vernon L. Sturgeon died on November 7, 2004, was preceded in death by his wife of 51 years, Esther, in 1990, and was survived by their daughters Elaine Healey and Carolyn Rexius, son Rick Sturgeon, brother Wilmer Sturgeon, sister Mildred Barclay, eight grandchildren, and 11 great-grandchildren; and

WHEREAS, Senator Vernon L. Sturgeon carried the appropriations bill in the Senate for funding the construction of State Highway Route 46 from Paso Robles to the coast in San Luis Obispo County; and

WHEREAS, It would be a fitting tribute to Senator Vernon L. Sturgeon to name a portion of State Highway Route 101 between the Cities of Paso Robles and Atascadero in San Luis Obispo County as the "Vernon L. Sturgeon Memorial Highway"; and

WHEREAS, Marilyn Jorgenson Reece was born and raised in North Dakota and earned a bachelor's degree in civil engineering from the University of Minnesota in 1948; and

WHEREAS, Marilyn Jorgenson Reece moved to Los Angeles with her parents shortly after graduation in 1948, and went to work for the State Division of Highways, which later became the Department of Transportation, as a junior civil engineer in Los Angeles; and

WHEREAS, After six years of experience required to sit for the Professional Engineers Exam, Marilyn Jorgenson Reece became the state's first fully licensed female civil engineer in 1954; and

WHEREAS, In 1962, Marilyn Jorgenson Reece received the Governor's Design Excellence Award from Governor Pat Brown for designing the Interstate 10 and Interstate 405 interchange; and

WHEREAS, Marilyn Jorgenson Reece became the Division of Highway's first woman resident engineer for construction projects shortly after receiving that award; and

WHEREAS, The three-level Interstate 10 and Interstate 405 interchange designed by Marilyn Jorgenson Reece opened in 1964 and was the first interchange designed in California by a woman engineer; and

WHEREAS, Urban critic Reyner Banham, author of Los Angeles: The Architecture of Four Ecologies, admired the wide-swinging curved

ramps connecting the two freeways, and wrote that the Interstate 10 and Interstate 405 interchange "is a work of art, both as a pattern on the map, as a monument against the sky, and as a kinetic experience as one sweeps through it"; and

WHEREAS, During her 35-year career, Marilyn Jorgenson Reece's projects included serving as senior engineer for the completion of State Highway Route 210 through Sunland in 1975–at the time, the largest construction project the Department of Transportation had ever awarded–at $40 million; and

WHEREAS, After retiring in 1983, Marilyn Jorgenson Reece taught engineering classes at Cal State Long Beach; and

WHEREAS, During Women's History Month in 1983, the Los Angeles City Council honored Marilyn Jorgenson Reece for making significant contributions to the city; and

WHEREAS, In 1991, Marilyn Jorgenson Reece received life membership in the American Society of Civil Engineers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby officially designates the portion of State Highway Route 101 between Spring Street in Paso Robles and Santa Barbara Road in Atascadero, in San Luis Obispo County, as the Vernon L. Sturgeon Memorial Highway; and be it further

Resolved, That the Legislature hereby officially designates the Interstate 10 and Interstate 405 interchange, also known as the San Diego-Santa Monica Freeway Interchange, in the City of Los Angeles, as the Marilyn Jorgenson Reece Memorial Interchange; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing these special designations, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 110—Relative to National Library Week.

[Filed with Secretary of State August 15, 2006.]

WHEREAS, National Library Week is being celebrated in public libraries throughout California from April 2 through April 8, 2006; and

WHEREAS, California's public libraries are centers for education, information, and entertainment; and

WHEREAS, California's public libraries and librarians advance teaching and learning by helping students, faculty, and researchers obtain the best, most accurate, and complete information; and

WHEREAS, California's public libraries are changing and dynamic places, offering computers, Internet access, e-mail reference, and other innovative services to connect their users with ideas and information; and

WHEREAS, California's public libraries provide technology training for patrons of all ages and help to bridge the "digital divide" for those who do not have access to technology at home or at school; and

WHEREAS, California's public libraries change lives by serving over 100,000 adults and children annually through customized literacy services delivered primarily through trained volunteers; and

WHEREAS, Students are a rapidly growing group of library users, visiting the state's public libraries after school and on weekends for homework assistance and for materials to use in school assignments; and

WHEREAS, California's public libraries are important community educational resources, providing innovative programs for youth such as preschool literacy readiness, Toddler Times, the Summer Reading Program, Homework Help Centers, Grandparents and Books, and Reach Out and Read in conjunction with pediatric clinics; and

WHEREAS, California's public libraries preserve our cultural heritage, inform our present, and inspire our future; and

WHEREAS, More than 20 million people use California's public libraries annually; and

WHEREAS, California's public libraries provide equal and economical services and, in many cases, serve as a community's only public point of access to resources for learning; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes the week of April 2 to April 8, 2006, as National Library Week, applauds the positive and vital impact of California's public libraries, librarians, and all library workers, and thanks them for enriching the lives of residents and helping to make our state an exceptional place to live, learn, and work; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 98

Senate Joint Resolution No. 18—Relative to veterans' cemeteries.

[Filed with Secretary of State August 15, 2006.]

WHEREAS, Our liberties are preserved by those willing to make the ultimate sacrifice; and

WHEREAS, Our debt to those who serve can never truly be measured or repaid and therefore it is important to show our gratitude in the humble, thankful, and gracious spirit in which it is offered; and

WHEREAS, The actions we take today will determine the fate of our liberties tomorrow, or, as George Washington said, "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive veterans of earlier wars were treated and appreciated by their nation"; and

WHEREAS, One of the greatest expressions of unending gratitude to our veterans is recognition in perpetuity by being laid to rest in a veterans' cemetery; and

WHEREAS, There are few locations in the United States with the grandeur of the California coastline at Monterey; and

WHEREAS, Fort Ord in Monterey County, California, also shares a long and honorable history with veterans of the United States of America; and

WHEREAS, Local citizens and governments continue to recognize their connection with veterans and have donated land for the purpose of honoring America's veterans; and

WHEREAS, The State of California is working to establish an endowment fund; and

WHEREAS, The proposed endowment fund will consist of monetary and in-kind donations from public and private entities, as well as fees and transfers from the General Fund to pay the costs of maintaining the veterans' cemetery at Fort Ord; and

WHEREAS, It is recognized by the State of California that the Fort Ord location in Monterey County contains all tangible and intangible requirements for the making of a national shrine, including a history of defending the United States, long service with veterans, scenic views, and an honored place in the heart of the community, the state, and the

nation, even if not in the heart of the United States Department of Veterans Affairs; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to approve construction of a state veterans' cemetery at Fort Ord in Monterey County, California, when the state applies to the United States Department of Veterans Affairs State Cemetery Grants Program in order to fund 100 percent of the cost of constructing and establishing a state veterans' cemetery at Ford Ord; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to all Members of the Congress of the United States, to the United States Secretary of Veterans Affairs, and the Under Secretary for Memorial Affairs with the United States Department of Veterans Affairs.

RESOLUTION CHAPTER 99

Senate Joint Resolution No. 31—Relative to clean ports.

[Filed with Secretary of State August 15, 2006.]

WHEREAS, California is a global gateway for trade, with more than 40 percent of all of the goods imported to the United States entering through California's ports; and

WHEREAS, Growth in the movement of goods through California's ports is projected to double or triple over the next 25 years; and

WHEREAS, Toxic diesel air pollution from goods movement sources, such as marine vessels and locomotives, will increase in the face of this growth unless more protective control actions are undertaken; and

WHEREAS, The International Maritime Organization (IMO), an agency of the United Nations, has established initial smog-forming NO_x emissions limitations and fuel sulfur specifications for oceangoing vessels, and the United States Environmental Protection Agency (EPA) has adopted emission standards for new locomotives, new trucks, and some vessels; and

WHEREAS, Current international and federal standards governing air pollution from port-related sources are not sufficient to support attainment of federal health-based air quality standards in areas with growing emissions from port-related sources; and

WHEREAS, Rules adopted by the EPA and the IMO have not adequately reduced emissions from sources associated with the ports; and

WHEREAS, The EPA has not regulated emissions from foreign flag vessels. The vast majority of oceangoing vessels calling on local ports, over 90 percent, are foreign flagged; and

WHEREAS, The EPA stated that it will consider adopting emission standards for foreign flag vessels in 2007; and

WHEREAS, The IMO emissions and fuel standards for foreign flag vessels are particularly weak. IMO smog-forming NO_x standards for new "Category 3" vessels will achieve only a 6-percent reduction in emissions. IMO fuel rules allow extraordinarily high levels of sulfur content; and

WHEREAS, Federal emission standards for locomotives are relatively lenient. Even the newest locomotives must only achieve a 57-percent reduction in NO_x emissions. In contrast, most onroad and stationary sources are controlled to over 90 percent. EPA has stated it intends to adopt more stringent locomotive emission standards in 2006; and

WHEREAS, Port-related sources emit substantial and growing quantities of smog-forming nitrogen oxides and other air contaminants; and

WHEREAS, Locomotives and marine vessels emit diesel exhaust, a toxic air contaminant; and

WHEREAS, Diesel emissions are responsible for 70 percent of the cancer risk from air toxics emissions in California; and

WHEREAS, The EPA has stated that diesel exhaust is likely to be carcinogenic for humans; and

WHEREAS, Part or all of 474 counties in 32 states are classified nonattainment for either failing to meet the new eight-hour federal ozone standard or for causing a downwind county to fail to meet that standard; and

WHEREAS, One hundred fifty-nine million people nationwide live in areas that do not meet the new eight-hour federal ozone standard; and

WHEREAS, All areas of the country could benefit from the reduction in emissions of toxic air contaminants from locomotives, and many areas would benefit from reduction in those emissions from marine vessels; and

WHEREAS, Emissions from mobile sources, including locomotives, marine vessels, and aircraft, are preventing California from achieving state and federal clean air standards; and

WHEREAS, The EPA has authority to adopt regulations establishing emissions standards for marine vessels, locomotives, and aircraft; and

WHEREAS, Federal law mandates that the state adopt rules to attain national ambient air quality standards, but limits state and local authority to adopt certain regulations establishing emissions standards for aircraft, new locomotives, and new locomotive engines; and

WHEREAS, Federal regulations define new locomotives and new locomotive engines to include remanufactured locomotives and engines so as to restrict state authority to adopt some regulations establishing emissions standards for these older locomotives; and

WHEREAS, Locomotives have extremely long useful lives and older locomotives emit air contaminants at relatively high rates; and

WHEREAS, State and local governments seeking to control emissions from marine vessels have faced arguments by vessel operators that state and local governments lack authority to adopt laws establishing emission limits for foreign flag vessels; and

WHEREAS, Stringent regulations in California have reduced emissions by over 90 percent from most significant stationary sources and from motor vehicles and other mobile sources under the jurisdiction of state and local authorities in California, but locomotives, marine vessels, and aircraft have been controlled far less stringently by the federal government, and have not achieved their fair share of emission reductions needed to meet state and federal clean air standards; and

WHEREAS, Until locomotives, marine vessels, and aircraft are required to achieve their fair share of emission reductions, other mobile sources such as passenger cars, buses, and commercial trucks, as well as stationary sources, including large and small businesses in California will have to make up the difference; and

WHEREAS, The ports have developed ambitious programs and plans but, to date, they have not rolled back emissions or even arrested emissions growth. Both the Port of Los Angeles and the Port of Long Beach have developed emission control programs and plans that will help mitigate air quality impacts, but the fact remains that the ports continue to be sources of singularly large and growing quantities of diesel emissions; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature respectfully memorializes the Administrator of the EPA urging the administrator to adopt federal regulations limiting emissions from marine vessels, locomotives, and aircraft in order to achieve healthful air quality in California and other areas with air quality problems; and be it further

Resolved, That those federal regulations mandate use and improvement of state-of-the-art emission control and prevention technologies at the earliest feasible date, be comparably stringent to state and local air pollution control requirements so that operators of locomotives, marine

vessels, and aircraft contribute their fair share to support air quality attainment plans, and implement Congress' intent that state and local air quality authorities be allowed to adopt rules establishing emissions standards for remanufactured locomotives; and be it further

Resolved, That the Legislature respectfully encourages the EPA to pursue more protective regulations and incentive programs to reduce substantially the emissions from marine vessels, including domestic and foreign flagged vessels, locomotives, and aircraft, with the level of emissions sufficiently reduced to help regions polluted by trade-related diesel emissions attain federal health-based standards by the dates required by the Clean Air Act, federal regulations, and corresponding state implementation plans; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Environmental Protection Agency, to the United States Coast Guard, and to the author for appropriate distribution.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 47—Relative to the Ramon Ojeda Memorial Highway.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, Army Specialist Ramon Ojeda was killed in action in Baghdad, Iraq on May 1, 2004, at the age of 22, when his convoy was attacked by terrorists; and

WHEREAS, Ramon attended school in Ramona, California, and is survived by his wife, Lesliee, who is serving in the United States Army in Iraq, and by his 14-month-old son, Angel; and

WHEREAS, Ramon's father, Jack Ojeda, a Vietnam veteran, met his mother, Maria, while serving in the United States Army; and

WHEREAS, Ramon wrestled at Ramona High School and had a "can do" spirit and a remarkable ability to disarm and cheer up others with his levity; and

WHEREAS, Specialist Ojeda joined the United States Army and was assigned to the Army's 25th Infantry Division; and

WHEREAS, Specialist Ojeda was the first Ramona resident killed in action in Iraq; and

WHEREAS, Ramon traveled State Highway 78 every day to school in Ramona, his family members and friends travel State Highway 78 every day to work, and his parents and family still live in the rural area east of Ramona; and

WHEREAS, State Highway 78 should be renamed in Ramon's honor and in honor of all of the men and women serving in the United States Armed Forces; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, that the Legislature hereby designates State Highway Route 78, between Third Street and State Highway 67, the "Ramon Ojeda Memorial Highway;" and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 77—Relative to local recreation and park agencies.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The incidence of obesity among Americans has more than doubled in the last 30 years, due in large part to a sedentary youth culture, an increase that continues to grow unabated; and

WHEREAS, National concern is increasing daily about the number of obese and overweight young people, which has more than doubled in the last 30 years due to physical inactivity and poor nutrition; and

WHEREAS, Healthy, active, and well-nourished children and youth are more likely to attend school, are more prepared, motivated to learn, and perform better academically; and

WHEREAS, Physical activity offers many benefits, including improved aerobic endurance and muscular strength, which helps to control weight and reduce fat, as well as building greater bone mass, which helps to prevent osteoporosis in adulthood; and

WHEREAS, Promoting physical activity early in life will lower the risk of developing chronic health problems, such as high blood pressure, asthma, heart disease, and diabetes; and

WHEREAS, California's state, city, county, and district recreation and park providers offer the spaces and places to provide for physical activity and constructive recreational and social outlets for children, youth, and all residents of the state regardless of age, ethnicity, religion, income, or ability; and

WHEREAS, California State Parks have 278 units throughout the state that offer recreational opportunities in open spaces for everyone, regardless of age, ethnicity, religion, income, or ability; and

WHEREAS, California State Parks and the recreation and park agencies of California's cities, counties, and special districts have the opportunity to positively affect inactivity among youth in urban environments by providing adequate and accessible park space within the state's respective communities; and

WHEREAS, California State Parks have facilities in both urban and rural locations that encourage physical activity among youth throughout the state by providing adequate and accessible park space; and

WHEREAS, California's cities, counties, and districts can go farther to construct municipal infrastructures and streets that encourage greater use of nonmotorized modes of transportation; and

WHEREAS, California voters have generously approved bond acts providing nearly $3 billion to local communities, California State Parks, and state conservancies, pursuant to Propositions 12 and 40 to improve the park and recreation infrastructure in the state; and

WHEREAS, These funds have gone far to provide enhanced and expanded venues to increase recreational and fitness opportunities among youth, thus increasing activity levels; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the importance of our local recreation and park agencies as part of the solution in the effort to reverse negative trends in inactivity, obesity, diabetes, and other health problems among Californians and encourages the state to utilize and partner with local recreation and park providers to create a healthier state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 104—Relative to West Covina Police Officer Kenneth Wrede Memorial Highway.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, Officer Kenneth Wrede of the City of West Covina Police Department was killed in the line of duty on August 31, 1983, in the City of West Covina while responding to a call regarding a suspicious person; and

WHEREAS, Officer Wrede, a longtime resident of southern California and a 1975 graduate of Katella High School in Anaheim, faithfully served the residents of the City of West Covina; and

WHEREAS, Officer Wrede received his associates degree in criminal justice from Fullerton College and was pursuing a bachelor's degree; and

WHEREAS, Officer Wrede is remembered as a passionate husband to his wife Denel; and

WHEREAS, Officer Wrede is remembered as a loving son to his parents Marianne and Kenneth Wrede, Senior; and

WHEREAS, Officer Wrede was a thoughtful sibling to his sisters Nicki, Karen, and Kerry Jo; and

WHEREAS, Officer Wrede was a man who committed his life, religious beliefs, and his career to the City of West Covina and the safety of its residents; and

WHEREAS, Officer Wrede's death leaves a painful void in the lives of his family and all whose lives he touched; and

WHEREAS, It is appropriate to recognize the hazardous work, serious responsibility, and strong commitment Officer Wrede willingly accepted during his career as a law enforcement officer; now, therefor, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the life and contributions of Officer Kenneth Wrede and designates the portion of Interstate 10 between Vincent Avenue, as the western boundary, and Grand Avenue, as the eastern boundary, in the City of West Covina as the West Covina Police Officer Kenneth Wrede Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering that cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly distribute copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 103

Assembly Concurrent Resolution No. 112—Relative to hepatitis B.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, Hepatitis B is a serious disease caused by a virus that attacks the liver. The hepatitis B virus (HBV) can cause lifelong infection, cirrhosis of the liver, liver cancer, liver failure, and death; and

WHEREAS, An estimated two billion people worldwide are infected with HBV, of whom two-thirds live in the Asian Pacific region, where the disease is endemic and has a carrier rate of 5 to 20 percent. Approximately 400 million people worldwide are chronically infected, and about one million people die from the disease annually; and

WHEREAS, In the United States, an estimated 130,000 Americans are infected with HBV each year, and between 5,000 and 6,000 Americans die from HBV-related liver complications. About 1.25 million Americans are carriers of the virus, 67 percent of whom are Asian and Pacific Islanders. Medical and work-loss costs for HBV-related conditions total more than $700,000,000 annually in the United States; and

WHEREAS, Transmission of HBV occurs through contact with blood and bodily fluids. Most people are able to fight off an HBV infection and clear the virus from their blood within six months of infection. However, for those whose immune systems are unable to ward off infection, the infection becomes chronic. The danger of HBV lies in its silent transmission and progression, as many chronic carriers have no symptoms and feel healthy; and

WHEREAS, HBV is 100 times more infectious than the AIDS virus. Approximately 5 to 10 percent of persons who become infected as adults, 30 to 50 percent of persons who become infected as children, and 90 percent of persons who become infected as babies will become chronic carriers. Twenty to 30 percent of the carrier population in the United States acquired their infection in childhood; and

WHEREAS, Although there is no known cure for HBV, the spread of the disease can be prevented with a safe and effective vaccine. In many countries, where 8 to 15 percent of children once became

chronically infected, the rate of chronic infection has been reduced to less than 1 percent in groups of immunized children; and

WHEREAS, In Taiwan, a hyperendemic area, mass vaccination was initiated in 1984 when the incidence of chronic HBV was 15 to 20 percent in the general population. This program led to a decline in HBV carrier rates among children in Taiwan from 10 percent to less than 1 percent; and

WHEREAS, The incidence rate among Asian Americans is 7 percent compared to less than 0.4 percent in the general United States population; and

WHEREAS, The Center for Disease Control and Prevention's Recommended Childhood and Adolescent Immunization Schedule states that HBV vaccinations should be administered as early as possible. The first injection should be given within 12 hours of birth; the second at one month, and the completion of the series at six months; and

WHEREAS, The present requirement in California for HBV vaccination before entry into public school is laudable. However, it may not be enough to prevent the continual buildup of the chronic HBV carrier reservoir, as HBV vaccination verification is conducted only upon entry into public schools for incoming students entering kindergarten and preschool, or prior to entry into the seventh grade; and

WHEREAS, Completion of the three-dose HBV vaccination among high-risk Asian and Pacific Islander children is an ongoing challenge. A 1998 survey of Asian and Pacific Islander children 4 to 14 years of age in six major cities found completion rates for the first dose was 25 to 80 percent and for the entire three-dose series was 14 to 67 percent. Only 1 in 10 Asian and Pacific Islander children ages 15 to 19 years have received all three vaccinations, despite national recommendations targeting these children since 1982; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares that the HBV chronic infection rate among Asian and Pacific Islander Americans, as compared with the rest of the California population, reflects a health disparity, and urges the medical community and others to raise awareness regarding the high incidence of HBV infection in Asian and Pacific Islander Americans; and be it further

Resolved, That the Legislature of the State of California encourages the medical community, including physicians and school health personnel, to emphasize the need for completion of the three-dose HBV vaccination series to their patients and parents of Asian and Pacific Islander children, including those entering public school between the first and sixth grade, or after the seventh grade, and further encourages

participation in HBV vaccination programs in California to target high-risk Asian and Pacific Islander children; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 104

Assembly Concurrent Resolution No. 123—Relative to Historic U.S. Highway Route 80.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The California segment of former U.S. Highway Route 80, largely parallel to current Interstate 8, was a 180-mile highway spanning San Diego and Imperial Counties from San Diego Bay to the Colorado River, and played a major role in the development of this state during much of the 20th century; and

WHEREAS, In 1909, California voters approved a statewide bond measure for road improvement purposes in the amount of $18 million, providing, among other things, funds to construct a road between San Diego and Imperial Counties, and their county seats of San Diego and El Centro; and

WHEREAS, In 1912, the San Diego to Phoenix and the Los Angeles to Phoenix Road Race was won by San Diego, proving that the shortest route to the east was via the San Diego route; and

WHEREAS, In 1915, a unique wood plank road was built over the Imperial Valley sand hills, resulting in a shorter route; and

WHEREAS, In 1925, the federal government became involved in standardized highway route designations across the nation and even numbers were assigned to major highways running east and west, and odd numbers for highway running north and south. The numbering of highways proceeded in numerical order beginning in the north and east and continuing south and west, respectively, and, as a result, the routing along California's southern border was formally designated as Route 80; and

WHEREAS, This road, from San Diego to Tybee Island, Georgia, was adopted as U.S. Highway Route 80 of the designated federal highway system on November 11, 1926, by state and federal officials; and

WHEREAS, In 1926, a new transcontinental road record was achieved by Colonel Ed Fletcher of San Diego on this route; and

WHEREAS, Former U.S. Highway Route 80 was the first ocean-to-ocean transcontinental highway to be completed, and portions

of the route were known as the Bankhead, Broadway of America, Dixie, Lee, Old Spanish Trail, and Southern Transcontinental Highway; and

WHEREAS, Former U.S. Highway Route 80, in addition to its importance as a transportation corridor, also has outstanding natural, cultural, historic, and scenic qualities; and

WHEREAS, Over the years, former U.S. Highway Route 80 has conveyed commerce and pleasure travelers whose needs were met by nearby cities and communities; and

WHEREAS, The response to those needs resulted in the development of adjacent environments or the retention of open space and established the unique character of those areas; and

WHEREAS, Former U.S. Highway Route 80 served as the main street of a number of California communities along its length, representing areas of both state and local significance; and

WHEREAS, Although today largely supplanted by Interstate 8, traversable segments of former U.S. Highway Route 80 remain, some as secondary state highways and others relinquished to cities and counties as local roads; and

WHEREAS, It is appropriate to designate any remaining segments of former U.S. Highway Route 80 as Historic U.S. Highway Route 80; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the remaining segments of former U.S. Highway Route 80 for their historical significance and importance in the development of California, and designates those segments as Historic U.S. Highway Route 80; and be it further

Resolved, That the Department of Transportation is requested, upon application by a local agency or private entity, to identify any remaining traversable segments of former U.S. Highway Route 80; and be it further

Resolved, That the department is requested to determine the cost of appropriate signs consistent with signing requirements for the state highway system showing the special Historic U.S. Highway Route 80 designation, and, upon receiving donations from nonstate sources for that cost, to facilitate the erection of those signs at appropriate locations on former U.S. Highway Route 80; and be it further

Resolved, That the department is requested to develop consistent signing standards for the placement of highway signs showing the historic designation, which may be used by cities or counties to mark the remaining segments of former U.S. Highway Route 80 within their respective jurisdictions; and be it further

Resolved, That the designation of Historic U.S. Highway Route 80 pursuant to this resolution shall have no impact upon the future planning or development of adjacent private and public properties; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 105

Assembly Concurrent Resolution No. 132—Relative to the Deputy David P. Grant Memorial Highway.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, During the late morning of May 31, 2004, Deputy David P. Grant, a 15-year veteran of the Tuolumne County Sheriff's Department with more than 26 years of law enforcement experience, suffered fatal injuries responding to a "plane down" call near the town of Columbia; and

WHEREAS, Responding appropriately to the call at a high rate of speed, Deputy David P. Grant's vehicle swerved to avoid colliding with two other vehicles, left the roadway, and struck a tree; and

WHEREAS, Deputy David P. Grant was critically injured and transported to the Sonora Regional Medical Center where, surrounded by family and fellow deputies, he succumbed to his injuries; and

WHEREAS, The Tuolumne County Sheriff's Department had not lost an officer in the line of duty for more than 37 years; and

WHEREAS, Born and raised in Tuolumne County, Deputy David P. Grant was a "natural" and was destined to become a peace officer; and

WHEREAS, At the tender age of 16, Deputy David P. Grant served as an Explorer Cadet with the Sonora Police Department; and

WHEREAS, Following his career dream, Deputy David P. Grant was sworn in as a Sonora police officer in 1978 at 21 years of age; and

WHEREAS, Desiring to broaden his experience in a larger department, Deputy David P. Grant accepted an appointment with the Oceanside Police Department in 1981 and served the City of Oceanside with distinction for eight years; and

WHEREAS, His family and a deep-seated love for Tuolumne County brought Deputy David P. Grant home where he was sworn in as a Tuolumne County Deputy Sheriff on October 9, 1989; and

WHEREAS, Friends and colleagues of Deputy David P. Grant described him as one of the finest police officers, and as a person who

loved his profession, loved helping people, and loved Tuolumne County; and

WHEREAS, Deputy David P. Grant is survived by his wife Richie, son Justin, and daughters Rory Williams, Jennifer, and Whitney; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the contributions of Deputy David P. Grant to the people of California and designates the portion of State Highway Route 49 one mile before and after its intersection with Parrott's Ferry Road, in Tuolumne County, as the Deputy David P. Grant Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 106

Assembly Concurrent Resolution No. 136—Relative to California Nectarine Day.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The produce of the combined fresh peach, plum, and nectarine industries is grown on approximately 90,000 acres in California and, as that produce represents a total average annual income of more than $300 million, these fruits comprise a major segment of the state's total agricultural economy; and

WHEREAS, California is the largest producer of nectarines grown in the United States; and

WHEREAS, The word "nectarine" means sweet as nectar, and is the origin of the fruit's name; and

WHEREAS, Nectarines (Prunus persica var. nectarine) originated in China more than 2,000 years ago, were cultivated in ancient Persia, Greece, and Rome, and were introduced to the United States by the Spanish in the 18th Century; and

WHEREAS, During and following the Gold Rush, early settlers in California planted peaches and their cousins nectarines, with variety selection and improvements occurring as the industry developed; and

WHEREAS, There are 175 varieties of nectarines sold commercially from California, each with its own specific harvest time, flavor, and color characteristics; and

WHEREAS, Nectarines are a good source of vitamins A and C, beta-carotene, and potassium; and

WHEREAS, More than 1,500 families make up the peach, plum, and nectarine industry, and they have worked for generations to produce the highest quality fruit they can to not only feed the United States, but the world; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the historical, nutritional, and economic importance of nectarines, as well as the contributions of tree fruit growers and the California Tree Fruit Agreement, by declaring June 20, 2006, California Nectarine Day.

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 140—Relative to the Air and Space Museum and Education Center.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The San Diego Air and Space Museum was established on June 15, 1963, and moved into the historic Ford Building in Balboa Park on June 28, 1980, its present home; and

WHEREAS, The museum employs a staff of 41 and maintains more than 250 volunteers who greatly contribute to the operation of the museum; and

WHEREAS, The museum offers an internship program, employing 12 student interns annually; and

WHEREAS, The museum offers youth programs that serve a number of students each year. Between 2004 and 2005, the museum's youth programs served 2,858 students; and

WHEREAS, The museum provides scholarships annually. In 2005, $38,500 in scholarship funds were awarded to 13 high school students. To date, the museum's scholarship program has awarded $352,900 to San Diego area students; and

WHEREAS, Both youth and adult groups visit the museum on a regular basis; and

WHEREAS, The museum offers many community outreach programs, serving more than 43,000 individuals; and

WHEREAS, The museum maintains a library and archive collection that contains over 1.4 million images, more than 30,000 books, and 10,000 periodicals; and

WHEREAS, The museum is an affiliate of the Smithsonian Institution, is a member of the American Association of Museums, the California Association of Museums, and the Association of Science Technology Centers. The museum maintains a seat on the committee of the Mutual Concerns of Air and Space Museums Seminar and appears in hundreds of publications throughout the year; and

WHEREAS, The museum maintains 3,500 members and attendance at the museum for 2005 totaled more than 172,000 visitors; and

WHEREAS, The museum receives donations from visitors and members, and in 2006, 32.26 percent of the operating costs of the museum will be funded from these donations; and

WHEREAS, The museum maintains a collection of 96 aircraft and spacecrafts in eight galleries and two locations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the San Diego Air and Space Museum is designated as California's official Air and Space Museum and Education Center; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each member of the committee and to the author for appropriate distribution.

RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 145—Relative to child vision screening.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The people of California recognize the importance of early detection of vision impairments in children that, if treated, can prevent permanent damage or even blindness; and

WHEREAS, According to the United States Centers for Disease Control and Prevention, nearly two out of three children do not receive preventative vision care before entering elementary school and, left

undetected, impaired vision can alter a child's cognitive, emotional, neurological, and physical development; and

WHEREAS, The State Department of Health Services has identified 154,000 children who, at five and six years of age, received vision screenings between the years 2002 and 2003 through the California Health and Disability Prevention (CHDP) program, 6 percent of which required followup treatment; and

WHEREAS, Existing law requires all children entering the first grade to obtain a vision screening consistent with the health screening and evaluation testing requirements mandated by the CHDP program, unless voluntarily waived in writing by a parent or guardian; and

WHEREAS, Existing law requires children to obtain a vision appraisal upon first enrollment in elementary school and at least every third year until completion of the eighth grade; and

WHEREAS, There is no mechanism currently in place to track existing vision screening and appraisal results, or to ensure appropriate followup care once a vision deficiency is detected; and

WHEREAS, Vision screening and referral protocol is unequivocally recommended by the medical and optometric communities because many of the detectable afflictions can have lasting effects on a child's ability to excel in both academics and the future workplace; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature shall convene a panel, no later than January 1, 2007, to study existing vision screening and appraisal requirements for children upon enrollment or upon entering the first grade. Upon conclusion of this study, the panel shall recommend ways to improve existing vision screening and appraisal requirements. The goal of these recommendations shall be to ensure that children are receiving proper followup eye care and appropriate referrals to ophthalmologists or optometrists, when necessary, thereby improving children's physical development and scholastic performance; and be it further

Resolved, That the Senate Committee on Rules shall appoint to the panel one representative each from the State Department of Education, the State Department of Health Services, the American Academy of Pediatrics–California District IX, the American Academy of Optometry, the clinical vision services optometrist at the Permanente Medical Group, the California Optometric Association, the Senate Democratic Caucus, and of the Senate Republican Caucus; and be it further

Resolved, That the Speaker of the Assembly shall designate the chair and appoint to the panel one representative each from the California Medical Association, the California Academy of Ophthalmology, the

California Academy of Family Physicians, the clinical vision services ophthalmologist at the Permanente Medical Group, the California School Nurses Organization, the California Teachers Association, the Assembly Democratic Caucus, and the Assembly Republican Caucus; and be it further

Resolved, That the members of the panel shall not receive compensation, but shall be reimbursed from private sources for necessary travel expenses for the purpose of attending meetings of the panel, including any public meetings that the panel schedules, and that the panel shall be funded solely by private sources; and be it further

Resolved, That the panel shall submit to the Assembly Committee on Health and the Senate Committee on Health a preliminary report of its conclusions and recommendations by June 1, 2007, and a final report of its conclusions and recommendations no later than September 1, 2007; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 109

Assembly Joint Resolution No. 32—Relative to Qualified Veterans Mortgage Bonds.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, In addition to the benefits provided by the United States Department of Veterans Affairs, individual states have long been leaders in recognizing and rewarding the tremendous sacrifice of our nation's veterans; and

WHEREAS, Home ownership is viewed by many as a cherished component of the American dream; and

WHEREAS, Enabling veterans to achieve home ownership at a lower cost is a small reward for their faithful service while in the United States Armed Forces; and

WHEREAS, In appreciation of this service on behalf of our state and nation, the States of Wisconsin, Texas, Oregon, California, and Alaska have offered low-interest rates on home loan mortgages to qualified veterans for many decades; and

WHEREAS, This program has assisted over a million veterans in obtaining affordable housing and in making a better life for themselves and their dependents; and

WHEREAS, These states utilize tax-exempt bonds known as Qualified Veterans Mortgage Bonds (QVMBs) to fund almost all of the home purchase and home improvement loans made to veterans; and

WHEREAS, Current federal law governing the use of tax-exempt bonds used to fund these loans, as set forth in Section 143(*l*)(4) of the Internal Revenue Code, unfairly limits these programs to only those veterans who served prior to January 1, 1977; and

WHEREAS, This restriction unfairly prevents all veterans serving on active duty post-1976 from using QVMBs, including the over 500,000 men and women who served in Desert Shield and Desert Storm and the 180,000 reservists and National Guard members called up to serve our country since September 11, 2001; and

WHEREAS, The United States of America is once again at war, which will create new veterans and, unless action is taken by Congress, these new veterans will come home to diminished benefits; and

WHEREAS, The current federal statute devalues the military service of men and women who have voluntarily worn the military uniform of the United States Armed Forces since 1977 by denying them access to a benefit that has been available to their comrades in arms from other eras for more than three-quarters of a century; and

WHEREAS, Since 1922, California has operated, at no expense to its General Fund, the Cal-Vet Home Loan Program, a QVMB program that has helped over 415,000 California wartime veterans become homeowners; and

WHEREAS, By limiting the QVMB programs to pre-1977 veterans, California and the other four states are faced with the problem that the programs will effectively end in 2007, when the vast majority of veterans will no longer be eligible since, by that time, most wartime veterans will have either been out of active military duty more than 30 years or will have entered active duty after December 31, 1976; and

WHEREAS, These courageous men and women, many serving in harm's way even today, deserve the same benefits offered to their earlier comrades in arms, yet the states, in which they and their families reside, deny them the opportunity to use QVMBs; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to support legislative action to immediately remove the discriminatory portion of Section 143(*l*)(4) of the Internal Revenue Code, so that today's veterans and their families might enjoy the same benefits as their earlier counterparts; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States,

to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Department of Veterans Affairs.

RESOLUTION CHAPTER 110

Assembly Joint Resolution No. 52—Relative to the Orbiter Atlantis.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, Atlantis, the fourth orbiter to become operational at Kennedy Space Center (KSC), was named after the primary research vessel for the Woods Hole Oceanographic Institute in Massachusetts from 1930 to 1966. The two-masted, 460-ton ketch was the first United States vessel to be used for oceanographic research; and

WHEREAS, The Space Shuttle Atlantis has carried on the spirit of the sailing vessel with 21 space flights of its own, including the Galileo planetary explorer mission in 1989 and the deployment of the Arthur Holley Compton Gamma Ray Observatory in 1991. The National Aeronautics and Space Administration (NASA) has announced its intentions to standdown or inactivate the Orbiter Atlantis following mission STS–126, which is presently scheduled for April 2008; and

WHEREAS, Palmdale, California is where all the orbiters, Enterprise through Endeavour, were assembled and tested, including Atlantis, which was delivered for service to NASA in April 1985. The Air Force Plant 42 in Palmdale has performed the maintenance and modernization for all of the orbiters (Orbiter Maintenance Down Period (OMDP)) through 2001 when that effort was transitioned to KSC; and

WHEREAS, Atlantis benefitted from lessons learned in the construction and testing of Enterprise, Columbia and Challenger. At rollout, its weight was some 6,974 pounds less than Columbia. The experience gained during the Orbiter assembly process also enabled Atlantis to be completed with a 49.5 percent reduction in man-hours (compared to Columbia). Much of this decrease can be attributed to the greater use of thermal protection blankets on the upper orbiter body instead of tiles; and

WHEREAS, Atlantis was shipped to Air Force Plant 42 in Palmdale, California to undergo upgrades and modifications. These modifications included a drag chute, new plumbing lines that configured the orbiter for extended duration, more than 800 new heat protection tiles and blankets and new insulation for the main landing gear doors, and

structural mods to the Atlantis airframe. Altogether, 165 modifications were made to Atlantis over the 20 months it spent in Palmdale, California; and

WHEREAS, The Air Force Plant 42 continues to support the Space Shuttle Program with hardware fabrication and repair, although the workload has been diminishing each year. The people and facility there are certified for human-rated spaceflight hardware, tooling, and support equipment for both the Space Shuttle Program and the International Space Station; and

WHEREAS, Retiring Atlantis in Palmdale will support the facility's project "Vision for Space Exploration." It will free an OPF (Orbiter Processing Facility) for NASA's Exploration Mission Directorate, provide for a dedicated and focused workforce within ground operations at KSC to maintain and process Discovery and Endeavour to fly out the remainder of the Space Shuttle Program safely, and help to stabilize the small Space Shuttle workforce at Air Force Plant 42 in Palmdale to be able to provide optimal preplanned as well as emergent support to the program through fly-out and termination; and

WHEREAS, The Air Force Plant 42 and its workers will also help to preserve and prepare the Orbiter Atlantis for eventual transfer to its designated public display location once it is placed on loan and declared surplus and donated by NASA to a museum or science center by NASA; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and Congress of the United States and the National Aeronautics and Space Administration (NASA) to retire the Orbiter Atlantis to Palmdale, California, its place of origin for eventual public display at a designated museum to inspire and educate people for years to come about the many achievements of NASA's Space Shuttle Program; and be it further

Resolved, That the Chief Clerk of the Assembly and the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, the Administrator of the National Aeronautics and Space Administration (NASA), and to the author for appropriate distribution.

RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 127—Relative to Valley Fever Awareness Month.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, Valley fever (coccidioidomycosis), a progressive, multisymptom, respiratory disorder, is a debilitating disease; and

WHEREAS, It is caused by the inhalation of tiny airborne fungi that live in soil, but are released into the air by soil disturbance or wind; and

WHEREAS, Valley fever attacks the respiratory system, causing infection that can lead to symptoms that resemble a cold, influenza, or pneumonia-like symptoms; and

WHEREAS, Left untreated or mistreated, infection can spread from the lungs into the bloodstream, causing inflammation to the skin, permanent damage to lung and bone tissue, and swelling of the membrane surrounding the brain, leading to meningitis, which can be devastating and even fatal; and

WHEREAS, Once serious symptoms of valley fever appear, including pneumonia and labored breathing, treatment must be prompt with antifungal drugs that are disagreeable and often toxic, especially for patients who have it injected beneath the base of their skulls for meningitis, causing side effects such as nausea, fever, and kidney damage; and

WHEREAS, Within California alone, valley fever is found in portions of the Sacramento Valley, all of the San Joaquin Valley, desert regions, and portions of southern California; and

WHEREAS, Valley fever most seriously affects the young, the elderly, those with lowered immune systems, and those of African-American and Filipino descent; and

WHEREAS, Valley fever has been a disease studied for the past 100 years, but still remains impossible to control and difficult to treat; and

WHEREAS, There is no known cure to date for valley fever; however, researchers are closer than they ever have been in finding a much needed vaccine to cure this devastating disease; and

WHEREAS, The research effort to find a vaccine and the funding partnership, including funding from the State of California, was approved by the Legislature and signed by Governor Wilson in 1997; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature does hereby proclaim August 2006, as Valley Fever Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 112

Senate Joint Resolution No. 13—Relative to railroad safety.

[Filed with Secretary of State August 16, 2006.]

WHEREAS, The transportation of freight and passengers by railroad has been an integral part of California's economic infrastructure for nearly 150 years, and remains central to a vibrant economy that Californians hope to continue to enjoy in the 21st century; and

WHEREAS, The regulation of railroad operations is a major objective of California government in order to ensure and promote the health and safety of California's communities and its residents; and

WHEREAS, There has been a significant increase in the past 10 years in the number of derailments and accidents on California railways, resulting in injuries, death, and damage within communities where railways exist, and leading to growing attention and concern throughout the country; and

WHEREAS, The Federal Railroad Safety Act, was intended to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents, and has sharply restricted the authority of California and the other states to address rail safety issues, through a broad preemption of state laws; and

WHEREAS, The Federal Railroad Safety Act nevertheless was intended to provide for cooperative state and federal activity to prevent accidents and reduce their severity when they do occur, including allowing states to act where federal officials have not, providing concurrent state safety jurisdiction over railroads at essentially local safety hazards within states, and authorizing delegations of authority to state officials by the Federal Railway Administration; and

WHEREAS, Federal courts have consistently failed to find local safety hazards that would permit California to effectively regulate railway safety so as to anticipate and prevent accidents; and

WHEREAS, The Federal Railroad Administration has failed to institute the necessary rulemakings to develop safety regulations that fully protect California's communities and their residents from railroad derailments, hazardous materials spills, and highway-rail crossing accidents that result in injuries, death, and damage within communities where railways exist; and where the Federal Railroad Administration

has exercised jurisdiction, it has precluded states from providing the public with greater safety protections and from reducing the number and severity of railroad derailments, hazardous material spills, and highway-rail crossing accidents within their jurisdictions; and

WHEREAS, The federal government has failed to develop comprehensive plans to protect the public health and safety and to effectively fund railway safety programs; and

WHEREAS, California has a history of working with the Federal Railroad Administration in coordinating inspections, and has established and funded extensive railway safety programs; and

WHEREAS, There now exists a clear need to amend federal law in order to empower California officials to protect the public health and safety and to continue to build on the cooperation between California and federal rail safety officials; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States to amend the Federal Railroad Safety Act to increase the authority of state and local governments to enact railroad safety regulations providing greater protection for their residents from railroad derailments, hazardous materials spills, and highway-rail crossing accidents, so long as the state enactments, rules, or regulations do not conflict with federal law and do not impose an unreasonable burden on interstate commerce; and be it further

Resolved, That the Federal Railroad Administration is urged to work cooperatively with California and the railroad corporations by increasing its staff and funding, and by delegating additional authority to California officials to promulgate and enforce standards relating to railway track, operations, and equipment that will prevent and reduce the severity of accidents, derailments, and hazardous material spills; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 113

Senate Concurrent Resolution No. 96—Relative to the Deputy Sheriff Sandra Powell-Larson Memorial Highway.

[Filed with Secretary of State August 18, 2006.]

WHEREAS, Sacramento County Deputy Sheriff Sandra Powell-Larson died in the line of duty at 48 years of age while transporting state prisoners on northbound State Highway Route 5 at 375 feet south of R Street in Sacramento; and

WHEREAS, Deputy Sheriff Powell-Larson graduated from Rio Linda High School in 1968, and began her career with the Sacramento County Department of Social Services; and

WHEREAS, Deputy Sheriff Powell-Larson continued her county career with the Sacramento County District Attorney's Office while becoming a Sacramento County Reserve Deputy Sheriff; and

WHEREAS, Deputy Sheriff Powell-Larson became a full-time Sacramento County Deputy Sheriff on September 30, 1974, while continuing her secondary education at Sacramento City College, where she received an Associate of Arts degree in criminal justice; and

WHEREAS, Deputy Sheriff Powell-Larson is survived by her parents, Pete and Virginia Rudkin; her brother, Bill Powell; her sister, Pam McBroom; her brother, John Powell; her husband, Robert Larson; her daughter, Teresa Larson Crable; and her son, Marc Larson; and

WHEREAS, Deputy Sheriff Powell-Larson was known by her fellow officers for her dedication to the Sacramento County Sheriff's Officers Association, and her commitment to the protection of the citizens of our state; and

WHEREAS, Deputy Sheriff Powell-Larson served 18 years on the Sacramento County Deputy Sheriff's Association Board of Directors, where she worked tirelessly to improve wages and working conditions for her fellow deputies; and

WHEREAS, Deputy Sheriff Powell-Larson was the first female officer to die in the line of duty in the over 150-year history of the Sacramento County Sheriff's Office; and

WHEREAS, It is appropriate that the northbound and southbound portions of State Highway Route 5 between Q Street and J Street in the County of Sacramento be dedicated to the memory of this law enforcement officer who made the ultimate sacrifice in her service to the people of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby dedicates the northbound and southbound portions of State Highway Route 5 between Q Street and J Street in the City of Sacramento, as the Deputy Sheriff Sandra Powell-Larson Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signage requirements for the state highway system, showing these special

designations, and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 34—Relative to public higher education.

[Filed with Secretary of State August 24, 2006.]

WHEREAS, The California Master Plan for Higher Education sets forth the promise that higher education shall be affordable and accessible to all eligible Californians; and

WHEREAS, Over the past four decades, California's taxpayers have provided significant and consistent funding for California's public system of higher education; and

WHEREAS, While University of California (UC) student fees may be lower than at some comparable institutions, the total cost of attending UC (including housing, books, and other costs) is high. In the 2005–06 academic year, UC undergraduate students are required to pay $6,802 in systemwide and mandatory campus-based student fees, while the total cost of their attendance is an average of $22,150; and

WHEREAS, While California State University (CSU) student fees may be lower than at some comparable institutions, the total cost of attending CSU (including housing, books, and other costs) is much higher. In the 2005–06 academic year, CSU undergraduate students are required to pay $3,164 in systemwide and mandatory campus-based student fees; and

WHEREAS, Over the past 30 years, higher education's share of overall state General Fund spending has declined from 16.8 percent in 1975–76, to 11.3 percent in 2005–06. General Fund support for the combination of the CSU and UC has declined even more dramatically, going from slightly less than 12 percent of state General Fund spending in 1976, to only 6 percent in 2006. Mandatory student fees have increased dramatically to replace the declining state funding for higher education; and

WHEREAS, Despite an historical commitment to Cal Grant awards and significant increases in institutional aid, need-based aid in the form of grants has failed to keep up with rapidly rising fees or to adequately

address the total cost of attendance. As a result, needy students still face an increasing loan burden; and

WHEREAS, The rising total cost of attendance has forced students to take on increasing work and loan burdens. In constant dollars, the cost of attendance at UC has increased from $12,452 in 1994–95, to $15,179 in 2003–04. Students at CSU have experienced a similar increase in the cost of attendance; and

WHEREAS, The average UC undergraduate student graduates with $20,000 in debt; and

WHEREAS, Increasingly unreasonable work and loan burdens inhibit students' abilities to take challenging academic courses, to participate in campus life, and to pursue public interest careers after graduation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares that it is time for a compact with students enrolled in California's public colleges and universities, and that the Legislature therefore recommends all of the following:

(a) California higher education student fee and financial aid policies should:

(1) Be sensitive to what families can afford, and not based solely on the cost of instruction to the state, the university, or the community college.

(2) Provide that student fees shall remain affordable even during state budget crises.

(3) Recognize the outstanding contribution of graduate and professional students to the research mission of UC and the long-term economic strength of California's economy.

(4) Include student representatives in the decisionmaking process regarding student fee levels and policies.

(b) The state, the public universities, and the community colleges should provide student grant aid so that:

(1) No student is prevented from attending UC, CSU, or the California Community Colleges for financial reasons.

(2) Financially needy students receive sufficient grant aid to cover the total cost of attendance, including fees, housing, books, and transportation.

(c) The state should provide sufficient funding to community colleges and universities to ensure that students have access to the courses needed to complete their academic or vocational programs in a timely fashion.

(d) The student fee and student affordability policies should not require:

(1) Students to work unmanageable hours to finance their education.

(2) The expected workload burden to negatively impact students' academic performance or competitiveness for graduate school or careers.

(e) The student fee and student affordability policies should limit the student loan debt so that:

(1) Students can repay the loans within 10 years of graduation at a rate that is a reasonable percentage of their income.

(2) Students are not restricted in their goals of pursuing an advanced degree or working in the public interest sector.

(f) Key public policy goals for the Legislature are access to and success in California higher education, so that the diversity of our state is reflected in the diversity of the student bodies and graduating classes of our public colleges and universities. In order to ensure access and success for low-income and educationally underserved students, the state must provide all of the following:

(1) Permanent funding of the effective Academic Preparation programs.

(2) Appropriate funding to accommodate enrollment growth anticipated in the next decade.

(3) Appropriate funding for our colleges and universities to ensure access, quality, success, and affordability for all students who decide to enroll in those institutions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each member of the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 129—Relative to the Rosa Parks Memorial Building.

[Filed with Secretary of State August 24, 2006.]

WHEREAS, On December 1, 1955, Rosa Parks bravely challenged widely accepted Jim Crow laws by refusing to give up her seat on a bus; and

WHEREAS, On November 13, 1956, the United States Supreme Court ruled that the segregation law in Montgomery Alabama was unconstitutional, and on December 20, 1956, Montgomery officials were ordered to desegregate buses; and

WHEREAS, Rosa Parks' challenge to segregation on buses contributed to the end of institutionalized segregation in the South; and

WHEREAS, Rosa Parks greatly contributed to the civil rights movement; and

WHEREAS, In 1999, former President Bill Clinton presented Rosa Parks with the Congressional Gold Medal; and

WHEREAS, Rosa Parks passed away on October 24, 2005; and

WHEREAS, The people of the State of California are grateful for the bravery of Rosa Parks and her contribution to the civil rights movement; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of General Services is requested to designate the State Government Center Building at 464 West 4th Street, in San Bernardino as the Rosa Parks Memorial Building in recognition of the contribution of Rosa Parks to the civil rights movement; and be it further

Resolved, That the Department of General Services is further requested to erect the appropriate markers and plaques, consistent with the signing requirements for state buildings, showing this special designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of General Services and the author for appropriate distribution.

RESOLUTION CHAPTER 116

Assembly Joint Resolution No. 41—Relative to immigrant children.

[Filed with Secretary of State August 24, 2006.]

WHEREAS, In the past few years, the number of unaccompanied children taken into custody by immigration officials has increased by nearly 30 percent, and is expected to reach an alltime high this year; and

WHEREAS, Congress has the power to regulate immigration and naturalization (Art. I, Sec. 8, U.S. Const.); and

WHEREAS, Federal authority over immigration matters is very broad; and

WHEREAS, Federal immigration law specifically provides that a juvenile who is also an unlawful immigrant may be accorded the status of special immigrant if (a) he or she has been declared a dependent in a juvenile court, or is a person whom the court has legally committed to, or placed under the custody of, an agency or department of a state and he or she has been deemed eligible by that court for long-term care due to abuse, neglect, or abandonment, (b) he or she is a person for whom

it has been determined in administrative or judicial proceedings that it would not be in his or her best interests to be returned to the juvenile's or his or her parent's previous country of nationality or country of last habitual residence, and (c) he or she is a person in whose case the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status (8 U.S.C. Sec. 1101 (a)(27)(J)); and

WHEREAS, If the child is not assigned an immigration specialist to obtain Special Immigrant Juvenile Status prior to emancipation, his or her ability of gaining legal status becomes practically null; and

WHEREAS, Unless the Child Welfare and Juvenile Court Systems ensure that eligible undocumented children obtain lawful Special Immigrant Juveniles Status prior to their emancipation, these children are destined for lives of instability and fear as outsiders in the only country many have ever known; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States to protect these children; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States to amend the federal immigration law to permit these children to have an immigration specialist assigned to them prior to their emancipation; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States to amend Section 320 of the Immigration and Nationality Act to state that if a child has been adopted while a dependent of a juvenile court located in the United States, he or she need not be fully admitted for permanent residence, as required by subsection (a)(3) in order to become a United States citizen pursuant to this section; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the United States Secretary for Homeland Security, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 117

Assembly Joint Resolution No. 47—Relative to California housing affordability.

[Filed with Secretary of State August 24, 2006.]

WHEREAS, The median home price in California has skyrocketed to $540,900; and

WHEREAS, The California Association of Realtors indicates the 84 percent of California families cannot afford a median-priced home; and

WHEREAS, Working families representing all of California's diverse ethnic communities are particularly hard hit by the housing affordability crisis; and

WHEREAS, The current Federal Housing Administration (FHA) loan limits of $362,790 are too low and do not reflect the high costs of housing in California, thus removing a vital option for potential home buyers; and

WHEREAS, The current Freddie Mac and Fannie Mae conforming loan limit of $417,000 is too low and does not reflect the high cost of housing in California, thus removing a vital mortgage financing option for potential home buyers; and

WHEREAS, Working California families that live in areas that exceed the current conforming loan limit are financially limited from accessing these government-sponsored programs because of their geographic location; and

WHEREAS, The conforming loan limit should be adjusted to the median price of a home within its community; and

WHEREAS, The California Association of Mortgage Brokers indicates that over 150,000 households in California would now be able to afford the median home in their community if the conforming loan limit were increased to the median home price; and

WHEREAS, The California Association of Mortgage Brokers indicates that California households will save from $315 to $630 million annually on mortgage payments by raising the conforming loan limit to the median home price in the community; and

WHEREAS, Increasing the conforming loan limit would increase the number of California consumers covered by important consumer protections that are only applicable to loans under the conforming loan limit; and

WHEREAS, Congress has designated Hawaii, Alaska, and various territories as "high-cost areas," allowing an increase in the conforming loan limit to the median home price in that area; and

WHEREAS, California's median home price exceeds the median home price of all states and territories designated as high-cost areas; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature memorializes the President of the United States and Congress to recognize California as a high-cost area for

purposes of purchasing a home and should be considered the same status as other high-cost areas; and be it further

Resolved, That the California Legislature joins the California Association of Mortgage Brokers in urging President Bush and Congress to take action to raise the FHA and conforming loan limits and help bridge the gap between Californians and the American Dream; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 118

Senate Concurrent Resolution No. 48—Relative to the Paramount Hay Tree in the City of Paramount.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, The region of southeast Los Angeles County and northwest Orange County was dominated by the dairy industry during the first half of the 20th century; and

WHEREAS, The towns of Hynes and Clearwater, which would later incorporate together and become the City of Paramount, were the hub of this regional dairy country with hundreds of dairies, and also developed as the central marketplace for trading hay and cattle, and became known as the "Milk Shed of Los Angeles" and "The World's Largest Hay Market;" and

WHEREAS, The total Hynes-Clearwater hay market was so large and influential that each day's median price of hay, based on the prices set by the many hay lots, was quoted by the mercantile markets in New York City and printed in major newspapers as the standard for the world; and

WHEREAS, A mature camphor tree, dubbed the "Hay Tree," was where representatives from all of the area hay lots would gather each day to compare notes and determine that median price for hay sellers and the world; and

WHEREAS, As one of the few remaining social and economic symbols of the once-pervasive hay and dairy industry in Los Angeles and Orange Counties, the Paramount Hay Tree was named a historical landmark by the State Historical Resources Commission; and

WHEREAS, One of the benefits of gaining that recognition, according to the commission, is having signs placed on nearby state highways noting the presence of historical landmarks, and recognition of the Paramount Hay Tree would encourage visits to the site and the City of Paramount and recognize the city for its important role in the agricultural history of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following exits should be designated with State Historical Landmark signs noting the presence of the Paramount Hay Tree: the Paramount Boulevard exit on State Highway Route 91 North and the Paramount Boulevard exit on State Highway Route 91 South; and the Alondra Boulevard exit on State Highway Route 710 East and the Alondra Boulevard exit on State Highway Route 710 West; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing these designations, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect these signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author and the Department of Transportation for appropriate distribution.

RESOLUTION CHAPTER 119

Senate Concurrent Resolution No. 80—Relative to Arthritis Awareness.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, The success of our nation depends upon a population that is healthy, reasonably free of pain, and functionally independent throughout the lifespan; and

WHEREAS, Arthritis includes more than 100 diseases and conditions affecting joints and connective tissues, such as osteoarthritis, rheumatoid arthritis, fibromyalgia, Lyme disease, and gout; and

WHEREAS, According to the federal Centers for Disease Control and Prevention (CDC), arthritis is the leading cause of disability in the United States, significantly affecting the quality of life for more than 70 million Americans who experience its painful symptoms; and

WHEREAS, According to the State Department of Health Services' California Arthritis Atlas, a 2002 report on the impact of arthritis

statewide, more than 6.5 million California adults, constituting 27 percent of the population, have arthritis; and

WHEREAS, Arthritis affects people in all age groups, including as many as 285,000 children; and

WHEREAS, A disproportionate number of older Californians, or an estimated 46 percent of those 45 years of age and older, have arthritis or experience chronic joint symptoms, and over one-half of all persons age 65 years or older have arthritis; and

WHEREAS, The State Department of Health Services concluded, in its 2002 California Arthritis Atlas, that arthritis costs the California economy an estimated $32 billion annually in medical expenses and lost wages; and

WHEREAS, Reports from the CDC and agencies in California indicate that disability is more severe in underserved populations that lack access to early diagnosis and treatment; and

WHEREAS, Existing public information and programs about arthritis in California remain inadequately disseminated and insufficient in addressing the needs of specific diverse populations and other underserved groups; and

WHEREAS, Educating the public and the health care community throughout the state about this devastating disease is of paramount importance and is in every respect in the public interest and to the benefit of all residents of the State of California; and

WHEREAS, The California Arthritis Foundation chapters, in partnership with other agencies throughout the state, have led the development of a public health strategy, the National Arthritis Action Plan, to respond to this challenge; and

WHEREAS, Arthritis is the leading cause of disability in the United States, and is associated with poorer physical health and poorer mental health; and

WHEREAS, Arthritis is not necessarily an inevitable part of the aging process; rather, effective methods exist to prevent, delay the onset of, and manage the symptoms of, arthritis; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby recognizes the need to create and foster a statewide program, in coordination with the California Arthritis Foundation chapters, that emphasizes a multiethnic approach, promotes public awareness, and increases knowledge about the causes of arthritis, the importance of early diagnosis and appropriate management, effective prevention strategies, and pain prevention and management; and be it further

Resolved, That the Legislature recognizes the need to work in 2006 to adequately fund the statewide program, so as to allow for the

development and dissemination to patients, health professionals, and the public, of educational materials, information on research results, available services, and strategies for prevention and control, and for the adaptation of this material to the appropriate languages and reading levels of medically underserved, ethnically diverse communities; and be it further

Resolved, That the Legislature proclaims the month of August 2006 as Arthritis Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 86—Relative to Assisted Living Week.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, Older Californians are a vital portion of our population; and

WHEREAS, California's elderly population is expected to grow more than twice as fast as the total population; and

WHEREAS, The number of Californians in need of care and services in order to remain as independent as possible will continue to grow; and

WHEREAS, Assisted living helps individuals live as independently as possible while enjoying a meaningful quality of life in an attractive residential environment; and

WHEREAS, California's more than 6,000 assisted living communities are meeting consumer demand by offering a variety of services, programs, and amenities; and

WHEREAS, The members of the California Assisted Living Association are proud to sponsor Assisted Living Week 2006 and celebrate the thousands of caregivers, residents, and volunteers in assisted living communities throughout the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature does hereby proclaim the week of September 10 to September 16, 2006, as Assisted Living Week and encourages all residents to visit friends and loved ones who reside in assisted living communities and to learn more about this valuable service; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 121

Senate Concurrent Resolution No. 87—Relative to Health Care Decisions Week.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, It is important for people to make health care decisions before they are needed; and

WHEREAS, Health care planning is a process, rather than a single decision, that helps people think about the kind of care they would want if they become seriously ill or incapacitated, encourages them to talk with their loved ones and doctors, and assists them in writing down their wishes; and

WHEREAS, Advance directives give people the ability to document their wishes and identify the person to speak for them should they become unable to speak for themselves; and

WHEREAS, Introducing these issues in community settings can help people begin conversations about their health care wishes with a family member, close friend, physician, or faith leader; and

WHEREAS, California has a number of local coalitions throughout the state that are working to involve individuals and families in health care planning through educational forums, discussion groups, speaker's bureaus, and training; and

WHEREAS, The California Coalition for Compassionate Care and over 50 of the coalition's member organizations representing health care providers, consumers, regulators, and local coalitions have joined together to sponsor a weeklong focus on health care decisions; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the week of October 30 through November 5, 2006, be recognized as Health Care Decisions Week in California; and be it further

Resolved, That the Legislature encourages all Californians to think and talk with loved ones about their wishes for medical care; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 122

Senate Concurrent Resolution No. 99—Relative to honoring the Sisters of Mercy.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, Founded in Ireland by Catherine McAuley in 1831 to serve those who were poor, sick, uneducated, and in misery, the Sisters of Mercy, led by Mary Baptist Russell and seven other Sisters of Mercy, left Kinsale, Ireland, and traveled to California in 1854; and

WHEREAS, The Sisters of Mercy arrived in San Francisco on December 8, 1854, to respond to the city's greatest needs: the untended sick, the destitute, abused women, orphaned children, and the uneducated. Known as "walking nuns," they visited shanties and county hospitals and were the first females to visit a state penitentiary, San Quentin Prison, and anywhere misery was found; and

WHEREAS, During the Gold Rush Days, on October 2, 1857, and just seven years after California became an official state, Mary Baptist Russell and four Sisters of Mercy came to California's capital, beginning a legacy of service spanning 150 years; and

WHEREAS, Three days after arriving in Sacramento, a school on 7th and K Streets was opened with 65 students, which swelled to 120 a few months later; and

WHEREAS, The Sisters of Mercy purchased land in the heart of the city to build a school. Passage of the "Capitol Bill" in 1860 resulted in the sale of that property to the state for its original price of $4,850. This is now the site of the State Capitol Building; and

WHEREAS, The Sisters of Mercy moved to 9th and G Streets where they opened the St. Joseph's Academy, the center of their works for more than 80 years; and

WHEREAS, In December 1861, an epic flood kept parts of Sacramento under water for six months. Moving in and out of their second story windows, the Sisters of Mercy went by boat to minister to flood victims at the city pavilion, becoming Sacramento's first visiting nurses; and

WHEREAS, Before 1896, Sacramento had no private pay hospital. Those who were not indigent or employed by Southern Pacific had to travel to San Francisco for care. The Sisters of Mercy responded to the challenge, and in 1895 bought Ridge Home, a small sanitarium at 22nd

and R Streets. This was soon replaced by Mater Misericordiae Hospital in 1897; and

WHEREAS, The Sisters of Mercy resumed caring for orphans in 1900 when Mrs. Leland Stanford donated the Stanford Mansion to the Sacramento diocese for that purpose. With only 15 professed "Sisters," the community ran a thriving academy, an orphanage, and a hospital; and

WHEREAS, The Sisters of Mercy, experiencing crises such as malaria, typhoid, and consumption, were challenged by the flu pandemic of 1918. Hospitals were jammed. At its peak, 400 new cases a day were diagnosed. Of the 55 nurses in training, only 19 were healthy. With all space needed for sick adults, the Sisters of Mercy volunteered to set up a special nursery for tiny flu victims at the Stanford Home; and

WHEREAS, At the end of World War I, land was purchased at 40th and J Streets, for the site of today's Mercy General Hospital, which opened on February 11, 1925, a symbol of the Sisters of Mercy's commitment to the well-being of the city; and

WHEREAS, The Sisters of Mercy have since spread their service to towns large and small throughout California. Recognizing they could do more through collaboration, in 1986 the Mercy Sisters of Auburn and Burlingame together established Catholic Healthcare West, a nonprofit health care system with over 40 member hospitals; and

WHEREAS, In 1991, the Sisters of Mercy in Sacramento opened a new chapter in their story joining with Sisters of Mercy throughout the United States and 11 countries to form the Institute of the Sisters of Mercy of the Americas, with more than 22,000 Sisters and associates to better serve today's needs; and

WHEREAS, Today, there are five free health clinics in the greater Sacramento region, several educational programs, and multiple affordable housing communities through Mercy Housing California. Mercy, in the greater Sacramento region has six hospitals, employing more than 7,000 employees and caring for thousands of patients each year; and

WHEREAS, The Sisters of Mercy provided the State of California's first health, education, and welfare programs for the poor and have been commemorated with a small, inconspicuous plaque located near the north entrance to the State Capitol Building, which will be relocated in the near future due to construction in that area; and

WHEREAS, A memorial in the Capitol Historic Region will provide a more appropriate "living tribute" to the Sisters of Mercy's continuing partnership with the City of Sacramento and State of California, educating visitors to the park of this strong history and alliance; and

WHEREAS, Funds for the construction of the memorial will be provided through private contributions; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby approves the construction of a tribute to the Sisters of Mercy in the Capitol Historic Region, with a preference for siting upon or adjacent to the site of the prior commemorative plaque displaced by the construction of the North Pavilion; and be it further

Resolved, That a State Review Committee be formed, consisting of representatives from the Department of General Services, the State Historic Preservation Office, the Assembly, and the Senate. This review committee shall work with the Sisters of Mercy to identify an appropriate location for the memorial in the Capitol Historic Region, and, if the preferred site is not acceptable to the Sisters of Mercy, shall review a memorial design. The actual construction of the statue shall not proceed without the Sisters of Mercy meeting all requirements of construction on state property, and, in the event the preferred site is not acceptable to the Sisters of Mercy, construction shall be contingent upon the adoption of the Capitol Park Master Plan; and be it further

Resolved, That the Department of General Services work with and consult with the Sisters of Mercy to accomplish the following goals: review of the preliminary design plans to identify potential maintenance concerns, Americans with Disabilities Act compliance, and other safety concerns; review and approval of proper California Environmental Quality Act documents prepared for the Sisters of Mercy for work at the designated historic property; review of final construction documents to ensure that all requirements are met; preparation of the right of entry permit outlining the final area of work, final construction documents, construction plans, the contractor hired to perform the work, insurance, bonding, provisions for damage to state property, and inspection requirements; preparation of a maintenance agreement outlining the Sisters of Mercy's responsibility for long-term maintenance of the memorial due to aging, vandalism, or relocation; and inspection of construction performed by the contractor hired by the Sisters of Mercy; and be it further

Resolved, That the Sisters of Mercy may establish a schedule for the design, construction, and dedication of the memorial, implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design, select individuals or organizations to provide fundraising services and to construct the memorial, review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial, and report to the Legislature biannually through the Joint Committee on Rules on the progress of the memorial notwithstanding; and be it further

Resolved, That no state moneys will be expended for construction of the memorial. Funds for the construction of the memorial shall be provided exclusively through private contributions for this purpose; and be it further

Resolved, That if the memorial is constructed, the Sisters of Mercy shall sign a maintenance agreement with the state and maintain the memorial with private contributions; and be it further

Resolved, That the Legislature hereby requests the Department of General Services and the State Review Committee formed pursuant to this measure to approve the construction of a tribute to the Sisters of Mercy in the Capitol Historic Region; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 123

Senate Concurrent Resolution No. 119—Relative to the Polio Awareness Year.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, As few as 57 percent of American children receive all doses of necessary vaccines during childhood, including the polio vaccine; and

WHEREAS, The United States Centers for Disease Control and Prevention recommends that every child in the United States receive all doses of the inactivated polio vaccine; and

WHEREAS, The success of polio vaccines has caused people to forget the 1,630,000 Americans who were born before the development of vaccines and who had polio during the epidemics in the middle of the 20th century; and

WHEREAS, At least 70 percent of paralytic survivors, and 40 percent of nonparalytic polio survivors, are developing post-polio sequelae, which are unexpected and often disabling symptoms that occur 35 years after the poliovirus attack that can include overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, cold pain, and difficulty swallowing and breathing; and

WHEREAS, Research and clinical work by members of the International Post-Polio Task Force have discovered that post-polio sequelae can be treated, and even prevented, if polio survivors are taught to conserve energy and use assistive devices to stop damaging and killing

the reduced number of overworked, poliovirus-damaged neurons in the spinal cord and brain that survived the polio attack; and

WHEREAS, Many medical professionals and polio survivors do not know of the existence of the post-polio sequelae, or of the available treatments; and

WHEREAS, The mission of the Post-Polio Survivors Foundation includes educating medical professionals and the world's 20,000,000 polio survivors about post-polio sequelae by making known the research done by the Post-Polio Institute at New Jersey's Englewood Hospital, by putting books like The Polio Paradox by Richard L. Bruno, H.D., Ph.D., in every library in America, and through television public service announcements like those provided by the National Broadcasting Company; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the need for every child in America to be vaccinated against polio, and the need to educate polio survivors about post-polio sequelae and appropriate medical care; and be it further

Resolved, That the Legislature recognizes the 1,630,000 Americans who survived polio, as well as all those who suffer with post-polio sequelae; and be it further

Resolved, That the Legislature proclaims 2006 as "The Year of Polio Awareness" to promote vaccination of the poliovirus, to promote post-polio sequelae education and treatment, and to encourage Members of the Legislature to take immediate action to educate polio survivors and medical professionals in the United States about the cause and treatment of post-polio sequelae.

RESOLUTION CHAPTER 124

Senate Concurrent Resolution No. 122—Relative to David Grant USAF Medical Center.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, David Grant USAF Medical Center at Travis Air Force Base in Fairfield, California, will be celebrating its 53rd anniversary in 2006; and

WHEREAS, This military medical treatment facility is recognized by the medical community as an outstanding training facility that is utilized in the training of medical students and residents by many California universities, including the University of California at Davis, the

University of the Pacific, Touro University, and the Pacific Union College; and

WHEREAS, In its 53 years of existence, David Grant USAF Medical Center has treated countless thousands of active duty military persons and their dependents, retired military persons and their dependents, and widows of retired military persons of all the United States Armed Services, including the Army, Navy Air Force, Marines, Coast Guard, and the National Oceanographic and Atmospheric Administration; and

WHEREAS, David Grant USAF Medical Center has been accredited by the highest accrediting agencies in the government, and continues to maintain and surpass the quality of medical care demanded of Armed Services medical personnel; and

WHEREAS, David Grant USAF Medical Center is recognized for its outstanding contribution to Operation Provide Promise, where 175 medical personnel were deployed to Zagreb, Croatia, in 1995; for its participation in Operation Uphold Democracy, where personnel were deployed to Cuba; for its support of Operation Phoenix Scorpion IV in the Persian Gulf region; for its deployment of 40 medical personnel to Prince Sultan Air Base in Saudi Arabia in Operation Southern Watch; and for its most recent deployments of 228 medical personnel in support of Operation Enduring Freedom, of 486 medical personnel in support of Operation Iraqi Freedom, and of 319 medical personnel in support of humanitarian efforts and military operations other than war in relief of the Indian Ocean Tsunami of December 2004 and Hurricane Katrina in August 2005; and

WHEREAS, David Grant USAF Medical Center takes great pride in the mission statement of the Air Mobility Command: "The Air Mobility Team ... Responsive Global Reach for America ... Every Day;" now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes David Grant USAF Medical Center and its outstanding command as an important segment of America's Armed Forces, and takes pleasure in commending the David Grant USAF Medical Center and its commanders, both past and present, for the contributions they have made to world peace, America's freedom, and the way of life enjoyed by the people of the State of California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to David Grant USAF Medical Center at Travis Air Force Base and the Air Mobility Command at Scott Air Force Base.

RESOLUTION CHAPTER 125

Senate Concurrent Resolution No. 131—Relative to children's vision and learning month.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, As children across the state prepare for the start of another school year, many of them will begin their studies with undiagnosed and untreated vision problems; and

WHEREAS, Research shows that vision disorders are the number one handicapping condition of children; and

WHEREAS, In fact, as many as one in four schoolage children have vision problems, according to the College of Optometrists in Vision Development; and

WHEREAS, All children deserve the opportunity to learn and to achieve their full potential; and

WHEREAS, For this reason, public awareness about learning-related vision problems is necessary to ensure that young people receive the prompt vision treatment that they need to enhance their lives; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature declares August 2006 as Children's Vision and Learning Month and encourages parents, educators, school nurses, and all concerned adults to recognize the critical role that good vision plays in the learning process and to work together to help prevent or reduce the impact that untreated vision problems can have on our children's ability to read and learn; and be it further

Resolved, That the Secretary of the Senate provide copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 126

Senate Concurrent Resolution No. 132—Relative to Hybrid Vehicle Awareness Month.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, Today the average person drives 15,000 miles per year, representing an increase of approximately 150 percent since 1970; and

WHEREAS, According to the American Automobile Association (AAA) Daily Fuel Gauge Report, gasoline prices in the State of California

are among the highest in the country, having doubled in the last four years; and

WHEREAS, The average price of gasoline in California has reached three dollars ($3) per gallon nearly one dollar ($1) per gallon more now than it was a year ago; and

WHEREAS, The most fuel efficient hybrid vehicles are able to drive more than 45 miles on a gallon of gas, far exceeding the current U.S. national average fuel economy standard of 27.5 miles per gallon for passenger vehicles; and

WHEREAS, Switching from a conventional vehicle that runs solely on gasoline to a hybrid vehicle can significantly improve fuel efficiency, thereby reducing petroleum demand and foreign oil dependency; and

WHEREAS, Of the many decisions consumers make, their choice of vehicle will have a significant impact on the environment and air quality; and

WHEREAS, Increased use of hybrid vehicles relative to conventional, gasoline powered vehicles can reduce carbon dioxide emissions, a leading cause of global warming; and

WHEREAS, Replacing conventional vehicles with hybrid vehicles can reduce other air pollutants that, according to the National Safety Council, contribute to health problems including cancer, birth defects, respiratory illness, heart and lung disease, and asthma; and

WHEREAS, According to R.L. Polk & Company, California led the nation with over 52,000 new hybrid vehicle registrations in the year 2005, accounting for 26.4 percent of the nation's share of new hybrid vehicles; and

WHEREAS, The Department of Motor Vehicles reports that presently, there are over 28 million registered passenger vehicles in California, and about 102,000 of those, or 3.6 percent, are hybrid vehicles; and

WHEREAS, According to a 2005 survey conducted by KPMG, automobile industry leaders believe sales of hybrid cars, as well as other fuel efficient models, will outpace sales of sport utility vehicles, pickups, and luxury models over the next five years; and

WHEREAS, According to J.D. Power and Associates, there will be approximately 35 hybrid vehicle model choices available to consumers in 2008 and over 50 models by 2012; and

WHEREAS, Education about hybrid vehicles raises awareness and encourages further development of transportation choices that can shape a more sustainable future; and

WHEREAS, According to a survey conducted by AAA of Northern California, 86 percent of its members who drive would like more education on hybrid and other alternative fueled vehicles; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of November 2006 is hereby officially designated Hybrid Vehicle Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 127

Senate Joint Resolution No. 22—Relative to the Microbicide Development Act.

[Filed with Secretary of State August 31, 2006.]

WHEREAS, Microbicides are a promising new prevention tool that could slow down the spread of the HIV/AIDS epidemic in the United States and around the world; and

WHEREAS, Women and girls are the new face of HIV/AIDS and account for almost one-half of the 37 million adults living with HIV and AIDS worldwide as of 2005, and approximately 7,000 women are infected with HIV each day; and

WHEREAS, In California, women comprise about 8 percent of all reported AIDS cases, yet are the fastest growing population with AIDS, and sex with an HIV-infected male is the most common route of transmission; and

WHEREAS, AIDS is now the number one cause of death among African-American women between the ages of 25 and 34 years; and

WHEREAS, The United States has the highest rates of sexually transmitted diseases of any industrialized nation, with more than 19 million new STD infections every year; and

WHEREAS, It is estimated that by age 25 one-half of all sexually active people in the United States can expect to be infected with a STD; and

WHEREAS, HIV and AIDS result in direct medical costs of more than $15 billion per year and the pandemic undermines our economy and security; and

WHEREAS, Microbicides may be formulated as gels, creams, or rings to inactivate, block, or otherwise interfere with the transmission of the pathogens that cause AIDS and other STDs, allowing women to protect themselves from disease; and

WHEREAS, Unlike current HIV prevention methods, microbicides would allow women to both conceive children and protect themselves from HIV and STDs; and

WHEREAS, The microbicide field has achieved an extraordinary amount of scientific momentum, with several first-generation candidates now in large scale human trials around the world; and

WHEREAS, Microbicides are a classic public health good, for which the social benefits are high but the economic incentive to private investment is low and, like other public health goods such as vaccines, public funding must fill the gap; and

WHEREAS, The federal government needs to make a strong commitment to microbicide research and development, and while three agencies—the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the United States Agency for International Development (USAID)—have played important roles, further strong, well-coordinated, and visible public sector leadership is essential for the promise of microbicides to be fully realized; and

WHEREAS, In 2005, NIH spent less than 2 percent of its HIV/AIDS research budget on microbicides, and that funding level is inadequate; and

WHEREAS, HIV and STD prevention strategies must recognize women's unique needs and vulnerabilities if women are to have a genuine opportunity to protect themselves, and their best option is the rapid development of new HIV prevention technologies such as microbicides; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature memorializes the United States Congress and the President of the United States to enact the Microbicide Development Act (S. 550 and H.R. 3854), which would amend the Public Health Service Act to facilitate the development of microbicides for preventing the transmission of HIV and other diseases, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 73—Relative to firearms statutes.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons, is lengthy and complex, and could be simplified; and

WHEREAS, It is the intent of the Legislature that the firearms laws be simplified and reorganized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons, and that this legislation shall accomplish the following objectives:

(a) Reduce the length and complexity of current sections.

(b) Avoid unnecessary use of cross-references.

(c) Neither expand nor contract the scope of criminal liability under current provisions. In the event that the commission's draft changes the scope of criminal liability under the current provisions, this shall be made explicit in the commission's draft or any commentary related to the draft.

(d) To the extent compatible with objective (c), use common definitions of terms.

(e) Organize existing provisions in such a way that similar provisions are located in close proximity to each other.

(f) Eliminate duplicative provisions; and be it further

Resolved, That nothing in this resolution shall be construed to prevent the Legislature, prior to receipt of the commission's recommendations, from enacting any measure related to the Penal Code sections under review by the California Law Revision Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission and to the author for appropriate distribution.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 96—Relative to Tall Ships Festival 2008.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, Beginning in 1976, numerous tall ships from around the world were invited to participate in the celebration of our country's Bicentennial in tall ships festivals along the eastern seaboard, and added greatly to the Bicentennial celebration; and

WHEREAS, In 1986, 22 international tall ships prominently participated in the Statue of Liberty Centennial celebration; and

WHEREAS, In 1992, numerous tall ships from around the world sailed in the Columbus Quincentennial commemorating the 500-year anniversary of Columbus' voyage to the New World; and

WHEREAS, The eastern seaboard has regularly hosted international tall ships festivals in the last 30 years, resulting in increased historical appreciation of the maritime contributions to our country and stimulation of local economies of the major ports where the festivals are held; and

WHEREAS, In 1999, during California's Sesquicentennial celebration, tall ships from maritime nations around the world visited the California ports of San Francisco, Los Angeles, and San Diego to participate in the Tall Ships Challenge and Festival of Sail; and

WHEREAS, Beginning with California's Sesquicentennial in 1999, tall ships from the navies of many countries including the Esmeralda (Chile), Gloria (Colombia), Guayas (Ecuador), Amerigo Vespucci (Italy), Kaiwo Maru II (Japan), Nippon Maru (Japan), Cuauhtemoc (Mexico), Europa (The Netherlands), Juan Sebastián de Elcano (Spain), Batkishvna (Ukraine), and the USCG Eagle (United States) have visited California's ports; and

WHEREAS, These tall ships were joined in the celebrations by other nongovernmental foreign tall ships, as well as tall ships from California and other states; and

WHEREAS, Since 1999, the California ports of San Francisco, Los Angeles, and San Diego have hosted two other gatherings of tall ships from around the world in 2002 and 2005, that commemorated and celebrated this state's rich maritime heritage and the maritime culture shared by all nations bordering the world's oceans; and

WHEREAS, These tall ships serve as floating educational institutions and as ambassadors of good will for their nations; and

WHEREAS, These visits strengthen the bonds of friendship between California and the nations of visiting ships; and

WHEREAS, These tall ships events bring people from diverse nations and cultures together with visiting sailors from across the ocean in a shared sense of excitement that is truly unique in joining appreciation for maritime history and traditions in celebrations that are an extraordinary cross-cultural experience; and

WHEREAS, These events have served to bring tall ships and young sailors from North America and around the world to the shores and harbors of the United States each year in friendly international competition and in celebration of the enduring values of teamwork, adventure, and courage that built a great society in North America; and

WHEREAS, The visits of these tall ships increased California's citizens', especially students, appreciation for California's rich maritime history and traditions dating back to the earliest days of its recorded history; and

WHEREAS, These visits received widespread national and international media coverage and boosted California's status as a worldwide, international, economic power; and

WHEREAS, These visits assisted the economies of the ports by drawing large crowds to visit the tall ships, with average attendance at each port between 300,000 and 500,000 visitors; and

WHEREAS, California has seen an increase in foreign tall ship visits as a result of the efforts of the sponsors of these events, California port cities, the State Coastal Conservancy, and the Legislature; and

WHEREAS, The San Diego Maritime Museum, the Los Angeles Maritime Institute, and the San Francisco host committee have joined together to host a tall ships event once again in 2008; and

WHEREAS, In 2008, the great historic California ports cities of San Francisco, Los Angeles, and San Diego will again serve as hosts to these gatherings of tall ships that evoke the history of California in the climactic phase of the heroic age of sail; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commends the Ports of San Francisco, Los Angeles, and San Diego for hosting these tall ships events; and be it further

Resolved, That the Legislature of the State of California congratulates the nonprofit organizers of the host ports, namely, the San Diego Maritime Museum, the Los Angeles Maritime Institute, and the San Francisco host committee on their efforts to provide a warm California welcome to the tall ships of the Tall Ships Festival 2008, and for their commitment to the important work carried on by those tall ships; and be it further

Resolved, That the Legislature of the State of California commends the State Coastal Conservancy for its steadfast encouragement and financial support for these tall ships events as part of its charter; and be it further

Resolved, That the Legislature of the State of California invites the tall ships of the world to participate in the Tall Ships Festival 2008, especially the tall ships of the navies of Argentina, Belgium, Chile, Colombia, Ecuador, Indonesia, Italy, Japan, Mexico, The Netherlands, Poland, Portugal, Spain, Sweden, United States, Uruguay, and Venezuela, and that they continue to visit California for the mutual benefits derived from these visits; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 99—Relative to Domestic Violence Awareness Month.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, Home should be a place of warmth, unconditional love, and security; however, for many Americans, home is tainted with violence and fear; and

WHEREAS, Domestic violence is much more than the occasional family dispute; and

WHEREAS, Domestic violence, also known as intimate partner violence, is a pattern of assaultive or coercive behaviors that may include inflicted physical injury, psychological abuse, sexual assault, progressive social isolation, stalking, deprivation, intimidation, and threats; these behaviors are perpetrated by someone who is, was, or wishes to be involved in an intimate or dating relationship with an adult or adolescent, and are aimed at establishing control by one partner over another; and

WHEREAS, According to the Surgeon General, United States Public Health Service, domestic violence is a societal problem of epidemic proportions; and

WHEREAS, Domestic violence is a serious criminal justice and public health problem: in the most recent (July 2000) National Violence Against Women Survey, 1.5 percent of surveyed women and 0.9 percent of surveyed men said they were physically assaulted or raped by a partner in the previous 12 months; according to these estimates, approximately 1.5 million women and 835,000 men are physically assaulted or raped by an intimate partner annually in the United States; cumulatively, an estimated 25 percent of women and 8 percent of men in the United States have been physically or sexually abused by an intimate partner at some point in their lives; and

WHEREAS, Domestic violence has serious health consequences: the immediate injuries sustained by victims during violent episodes can be severe and sometimes fatal, while physical and psychological abuse has been linked to a number of adverse medical health effects; domestic violence is linked to 8 of 10 of the leading indicators for Healthy People 2010; the health effects of intimate partner violence often persist for years after the abuse has ended; and

WHEREAS, The costs of domestic violence are substantial. The Centers for Disease Control and Prevention (CDC) estimated in 1995 that the total cost of intimate partner violence against adult women was approximately $5.8 billion; the great majority of these costs, more than $4 billion, were for health care services; and

WHEREAS, The health consequences of intimate partner violence are not limited to the adult partner being abused; between 3.3 million and 10 million children witness violence in their homes and studies have indicate that children who witness intimate partner violence are more likely to exhibit both physical health problems and behavioral problems; and

WHEREAS, According to the United States Department of Labor, one million people are assaulted and injured every year as a result of workplace violence, one thousand people are killed every year due to workplace violence, and 30 percent of battered women lose their jobs due to harassment at work by abusive husbands and boyfriends; and

WHEREAS, Battering affects families across America in all socioeconomic, racial, and ethnic groups; and

WHEREAS, Identifying and responding to abuse can make a difference. Models developed to identify other chronic health problems can effectively be applied to intimate partner violence; routine inquiry of all patients by skilled health care professionals increases opportunities for both identification and effective interventions, validates intimate partner violence as a serious public health issue, and enables providers to assist both victims and their children; and

WHEREAS, More than one-half of the number of women in need of shelter from an abusive environment may be turned away from a shelter due to lack of space; and

WHEREAS, Women are not the only targets of domestic violence: young children, elderly persons, and men are also victims in their own homes; and

WHEREAS, Emotional, physical, and psychological scars are often permanent; and

WHEREAS, A coalition of organizations has emerged to confront this crisis directly. Law enforcement agencies, domestic violence hotlines, battered women and childrens' shelters, health care providers, faith-based organizations, the courts, and the volunteers that serve those entities are helping in the effort to end domestic violence; and

WHEREAS, It is important to recognize the compassion and dedication of the individuals involved in that effort, applaud their commitment, and increase public understanding of this significant problem; and

WHEREAS, The first Day of Unity was celebrated in October 1981 and was sponsored by the National Coalition Against Domestic Violence

for the purpose of uniting battered womens' advocates across the nation in an effort to end domestic violence; and

WHEREAS, That one day has grown into a month of activities at all levels of government, aimed at creating awareness about the problem and presenting solutions; and

WHEREAS, The first Domestic Violence Awareness Month was proclaimed in October 1987; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the month of October 2006 as Domestic Violence Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President of the United States, the Governor of the State of California, the Director of the United States Department of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 131

Assembly Concurrent Resolution No. 138—Relative to Food Allergy Awareness Month.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, There are eight most common food allergens, which include milk, eggs, peanuts, tree nuts, soy, wheat, fish, and shellfish that cause 90 percent of all allergic reactions, and affect over 11 million Americans annually; and

WHEREAS, Food allergies trick the human immune system into believing that a harmless food substance is harmful and, in its attempt to protect the body, it creates specific antibodies to that food; and

WHEREAS, The next time the individual consumes that particular food substance, the immune system releases massive amounts of chemicals and histamines in order to protect itself; and

WHEREAS, Symptoms of a food allergy can range from a tingling sensation in the mouth, swelling of the tongue and throat, difficulty breathing, hives, vomiting, abdominal cramps, diarrhea, a drop in blood pressure, loss of consciousness, or death; and

WHEREAS, Consumption of a food allergen may lead to anaphylaxis, a potentially fatal condition in which several different parts of the body experience the allergic reaction and can, within minutes of exposure, lead to difficulty breathing, and unconsciousness; and

WHEREAS, An anaphylactic reaction can happen to any person with a food allergy, even if the individual has never before experienced an anaphylactic reaction with the same food substance before and, for every 200 school students, anaphylaxis can affect up to four students; and

WHEREAS, There is no cure for a food allergy and the only sure way to avoid a reaction is to exercise strict avoidance of an allergen; and

WHEREAS, Individuals should consult their personal physician or a certified allergist immediately if they believe they are having an adverse reaction to a particular food substance; and

WHEREAS, Diagnosis of a food allergy may include a thorough medical history, an analysis of a food dairy, and several other tests, including skin-prick tests, blood tests, and food challenges, in which different foods are used to test for allergic reactions; and

WHEREAS, Cases of food allergy are on the rise and children under the age of three years are the most likely to develop food allergies, due to their underdeveloped immune systems that cannot yet tolerate a wide range of new substances; and

WHEREAS, Educating and communicating with parents, school teachers, and child care providers about food allergies and how to treat food allergy reactions has never been more relevant; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares September 2006, as Food Allergy Awareness Month in California in order to raise awareness about food allergies, and to urge continued support for ongoing research into the effects of food allergies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and the Superintendent of Public Instruction.

RESOLUTION CHAPTER 132

Assembly Concurrent Resolution No. 142—Relative to Marco Antonio Firebaugh.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, Marco Antonio Firebaugh, at the age of 39 years, was running for the California State Senate when he succumbed to health ailments on March 21, 2006, at the University of California, Los Angeles Medical Center; and

WHEREAS, Marco Antonio Firebaugh was born to humble beginnings in Tijuana, Mexico on October 13, 1966, and emigrated to the United States when he was a young boy; and

WHEREAS, Marco Antonio Firebaugh worked hard to pay his own way through school and earned his bachelor of arts degree in political science from the University of California, Berkeley and a law degree from the UCLA School of Law; and

WHEREAS, Marco Antonio Firebaugh was the first in his family to attend college and was committed to the notion that free universal public education is the cornerstone of our democratic society and worked hard to improve educational opportunities for all California students; and

WHEREAS, In 2005, the City of Lynwood named their newest school the "Marco Antonio Firebaugh High School" as a result of Mr. Firebaugh's record of achievement in providing educational opportunities for all students; and

WHEREAS, Marco Antonio Firebaugh was elected to the California State Assembly at the young age of 32 years; and

WHEREAS, Marco Antonio Firebaugh served in the California State Assembly from 1998 to 2004, representing the 50th Assembly District located in southeast Los Angeles County, including the cities of Bell, Bell Gardens, Commerce, Cudahy, Huntington Park, Maywood, South Gate, and Vernon, as well as the unincorporated communities of East Los Angeles, Florence-Graham, and Walnut Park; and

WHEREAS, During his tenure in the Assembly, Marco Antonio Firebaugh was recognized for his impressive legislative and advocacy record on behalf of California's working families and their children, establishing him as a leader and role model in the Latino community; and

WHEREAS, Marco Antonio Firebaugh demonstrated outstanding leadership in introducing legislation aimed at improving the lives of immigrants and low-income families including undocumented immigrants who come to California to work and give their children a better life; and

WHEREAS, Marco Antonio Firebaugh recognized the importance of environmental justice issues and authored air quality legislation that provides funding for the state's most important air emissions reductions programs and that ensures that state funding be targeted to low-income communities that are most severely impacted by air pollution; and

WHEREAS, Marco Antonio Firebaugh recognized the need to protect the health of the most vulnerable members of our state—children. As a result, he authored legislation funding a mobile asthma treatment clinic known as a Breathmobile to provide free screenings and treatment for school children in southeast Los Angeles and fought hard in the Legislature to make California the first state to outlaw smoking in a

vehicle carrying young children to protect them from the hazards created by breathing secondhand smoke; and

WHEREAS, Marco Antonio Firebaugh understood that education is the great equalizer; and

WHEREAS, In 2002, Marco Antonio Firebaugh won a great victory with the passage of Assembly Bill 540, landmark legislation allowing undocumented California high school students to pursue a college education and pay in-state tuition fees; and

WHEREAS, From 2002 to 2004, Marco Antonio Firebaugh served as Chairman of the California Latino Legislative Caucus where he was responsible for managing the development of the Latino Caucus' annual "Agenda for California's Working Families" as a policy document that focuses on issues affecting California's diverse population; and

WHEREAS, Under Marco Antonio Firebaugh's stewardship, the Latino Caucus grew from 22 to 27 members; and

WHEREAS, While chairing the Latino Caucus, Marco Antonio Firebaugh led the effort to appoint more qualified Latinos and Latinas to high-level positions in state government, including the appointment of only the second Latino to serve on the California Supreme Court, the first Latina to serve as Chancellor of a University of California campus, and two additional Latino Presidents at the California State University at Fresno and Sacramento; and

WHEREAS, Because of his effectiveness both as a policymaker and political leader, Marco Antonio Firebaugh was appointed Majority Floor Leader in 2002; and

WHEREAS, Alongside former Speaker Herb J. Wesson, Jr., Marco Antonio Firebaugh served as Floor Leader from 2002 to 2004, making him the highest ranking Latino in the Assembly and one of the chief negotiators for Assembly Democrats; and

WHEREAS, Marco Antonio Firebaugh also served six years on the State Allocation Board, which provides funding for public school construction and modernization; and

WHEREAS, During his tenure on the State Allocation Board, California invested more than $16 billion in the construction and modernization of public schools, making it the largest investment in public school improvements in the history of the state; and

WHEREAS, Marco Antonio Firebaugh was a visiting Professor and Policy Fellow at the UCLA School of Medicine, Center for the Study of Latino Health and Culture; and

WHEREAS, Marco Antonio Firebaugh is survived by his two children, Ariana and Nicolas Firebaugh, and his mother, Carmen Rose Garcia, and many beloved family members and friends;

now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the Interstate 5 and Interstate 710 interchange in the County of Los Angeles as the "Marco Antonio Firebaugh Interchange"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 133

Assembly Concurrent Resolution No. 151—Relative to grade separation projects.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, The Public Utilities Commission has exclusive power to determine and prescribe the manner of a crossing of a street by a railroad; and

WHEREAS, The commission is required to adopt an annual grade separation priority list for projects that the commission determines to be most urgently in need of grade separation or alteration, determined on the basis of criteria established by the commission; and

WHEREAS, The California Transportation Commission is required to allocate available funding to projects pursuant to the annual priority list; and

WHEREAS, There are significant public safety concerns related to the juxtaposition of railroad crossings to emergency services where railroad traffic can and does adversely affect the delivery of emergency services, particularly in small communities with only one hospital or emergency care facility; and

WHEREAS, The impact of grade separation crossings on emergency services and public safety response time is an important consideration that should be given more weight by the Public Utilities Commission when adopting the annual priority list; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Public Utilities Commission to revise the prioritization formula used to establish the grade separation

priority list at the next Order Instituting Investigation to add a factor for delays that disproportionately affect emergency vehicles, especially in rural areas; and be it further

Resolved, That the Legislature requests the Public Utilities Commission to notify the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing when it has considered the revision described in this resolution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Public Utilities Commission and to the author for appropriate distribution.

RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 158—Relative to DNA Awareness Month.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, DNA technology is increasingly vital to ensure accuracy and fairness in the criminal justice system; and

WHEREAS, DNA analysis has proven to be a powerful tool in the fight against crime; and

WHEREAS, DNA evidence can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes; and

WHEREAS, Swift and accurate DNA analysis of evidence is a core public safety issue affecting men, women, and children in California; and

WHEREAS, The National Commission on the Future of DNA evidence and the President's DNA initiative: Advancing justice through DNA technology recognized that DNA technology is underutilized in our country and made clear that we must dedicate more resources to empower law enforcement to use DNA technology quickly and effectively; and

WHEREAS, The analysis and placement of DNA profiles into the California DNA databank can dramatically enhance the chances that potential crime victims will be spared the violence of repeat or serial offenders, by effectively and efficiently identifying suspects and linking serial crimes to each other; and

WHEREAS, The national databank through the Combined DNA Index System (CODIS) has about three million offender profiles; and

WHEREAS, There are education and training efforts underway throughout California to ensure that DNA technology reaches its full

potential to solve crimes, protect the innocent and identify missing persons; now, therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That henceforth, the month of September shall be designated as "DNA Awareness Month," and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 135

Assembly Joint Resolution No. 31—Relative to speech.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, A free press is vital to the publication of important news within our society so that our government is accountable to its citizens; and

WHEREAS, A journalist's promise of confidentiality to a source is often the only way the public can learn about waste, fraud, and abuse in government and the private sector, and the forced disclosure of confidential sources and information will cause individuals to refuse to talk to journalists, resulting in a chilling effect on the free flow of information and the public's right to know; and

WHEREAS, The most famous confidential source in United States history, W. Mark Felt, also known as Deep Throat, voluntarily revealed his identity as a resident of Santa Rosa 33 years after the Watergate scandal revealed corruption in the highest levels of the Nixon White House; and

WHEREAS, Shield laws promote the free flow of information to the public and prevent government from making journalists its investigative agents by prohibiting courts from holding journalists in contempt for refusing to disclose unpublished news sources or information received from those sources; and

WHEREAS, California's shield law was first enacted in 1935 and later incorporated as subdivision (b) of Section 2 of Article I of the California Constitution in 1980 to provide that a journalist may not be held in contempt for refusing to disclose a news source or unpublished information gathered for news purposes; and

WHEREAS, California's shield law was broadened in 2000 to also provide that no testimony or other evidence given by a journalist under subpoena in a civil or criminal proceeding may be construed as a waiver of immunity rights provided by the California Constitution, that a

journalist subpoenaed in any civil or criminal proceeding shall be given at least five days' notice, except in exigent circumstances, and that a judge must set forth findings on the record stating why the testimony of a journalist is essential to guarantee the defendant's constitutionally guaranteed right to a fair trial when presiding over a criminal trial wherein a journalist is asserting protection under the media shield law; and

WHEREAS, In O'Grady v. Superior Court (2006) 2006 Cal.App.LEXIS 802, the application of California's shield law was further broadened to include the gathering and collection of news by journalists publishing information through the Internet; and

WHEREAS, Thirty-one states — Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee – and the District of Columbia have statutory shield laws giving journalists some form of privilege against compelled production of confidential or unpublished information; and

WHEREAS, Eighteen states - Connecticut, Hawaii, Idaho, Iowa, Kansas, Maine, Massachusetts, Mississippi, Missouri, New Hampshire, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin - have established varying confidentiality privileges for journalists through their courts; and

WHEREAS, In 2005, legislation was introduced in Connecticut to establish a shield law and also within Maryland and Minnesota to expand their shield laws; and, in 2006, legislation was introduced in Washington to establish a shield law and also within New York to expand its shield law; and

WHEREAS, There are several pending measures in the Congress of the United States to establish a federal shield law for journalists, some of which recognize the necessity for media disclosure of a source to prevent imminent and actual harm to national security; and

WHEREAS, Over the last five years, three federal courts of appeals -the First Circuit, the Fifth Circuit, and the Circuit for the District of Columbia- have affirmed contempt citations issued to reporters who declined to reveal confidential sources, each imposing prison sentences more severe than any previously experienced by journalists in American history; and

WHEREAS, In relation to Miller v. United States (2005) 125 S.Ct. 2977 and Cooper v. United States (2005) 125 S.Ct. 2977, the Attorneys General of 34 states — Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, New

Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wisconsin – and the District of Columbia stated in an amicus brief submitted to the United States Supreme Court, "A federal policy that allows journalists to be imprisoned for engaging in the same conduct that these State privileges encourage and protect 'buck[s] that clear policy of virtually all states,' and undermines both the purpose of the shield laws, and the policy determinations of the State courts and legislatures that adopted them;" and

WHEREAS, Confidentiality of certain communications has long been protected in order to further important interests, both public and private, including communications between doctor and patient, lawyer and client, and priest and penitent; and

WHEREAS, A May 2005 poll conducted by the First Amendment Center and American Journalism Review found that 69 percent of Americans agree with the statement: "Journalists should be allowed to keep a news source confidential;" now therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the Congress of the United States to enact a shield law for America's journalists; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 49—Relative to pharmaceutical advertisements.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, The United States is one of just a few countries that allow pharmaceutical companies to advertise prescription drugs; and

WHEREAS, Direct-to-consumer prescription drug advertising is a category of promotional information about specific drug treatments that is provided directly to consumers by or on behalf of drug companies; and

WHEREAS, Direct-to-consumer prescription drug advertising is not necessary in order for pharmaceutical companies to sell their products; and

WHEREAS, Since pharmaceutical companies have been allowed to broadcast advertisements that mention a prescription drug by name without disclosing all of the risks of that medication, consumer demand for prescription medications has increased, resulting in a corresponding increase in the cost of prescriptions and of health care delivery; and

WHEREAS, While the pharmaceutical community has tried to convince the public, Congress, and the United States Food and Drug Administration (hereafter the FDA) that direct-to-consumer prescription drug advertisements are educational rather than promotional, the actual goal of the advertisements is not to educate the public, but rather to ensure that patients walk out of their doctors' offices with a prescription for a particular brand of prescription drug rather than with a prescription for a competitor's product or some other form of therapy that better suits the patient; and

WHEREAS, Physicians are under increasing pressure from patients who suspect that health maintenance organization formularies restrict physicians from prescribing the best prescription drugs; and

WHEREAS, Direct-to-consumer advertising of prescription drugs forces physicians to spend valuable time defending the reason that an advertised drug is unnecessary or detrimental to the patient's health; and

WHEREAS, If a physician declines to issue a prescription for a drug that a patient has seen advertised, the patient may turn to other sources to obtain the drug, including the Internet; and

WHEREAS, According to the United States General Accounting Office, the investigational arm of Congress, pharmaceutical manufacturers spent $1.1 billion in 1997 on direct-to-consumer prescription drug advertising, which increased to $2.7 billion in 2001, with expenditures increasing by double digits every year; and

WHEREAS, Numerous studies have linked the increased direct-to-consumer prescription drug advertising to the exponential growth in prescription drug expenditures; and

WHEREAS, In 1997, the FDA relaxed restrictions on the content of direct-to-consumer prescription drug advertising, withdrawing the prior requirement of a summary of side-effect and adverse reaction information and replacing it with a requirement for a statement about "major risks" but not "all risks," which made television and radio advertisements about prescription drugs more practicable; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the United States Food and Drug Administration is requested to aggressively monitor and regulate direct-to-consumer television

advertising of prescription drugs by pharmaceutical companies, pending action by the President and the Congress of the United States to ban that type of advertising; and be it further

Resolved, That the President and the Congress of the United States are memorialized to ban direct-to-consumer television advertising of prescription drugs by pharmaceutical companies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the United States Department of Health and Human Services, and to the Director of the United States Food and Drug Administration.

RESOLUTION CHAPTER 137

Assembly Joint Resolution No. 55—Relative to offshore oil drilling.

[Filed with Secretary of State September 7, 2006.]

WHEREAS, A bipartisan consensus in Congress has protected the California coastline from expanded offshore drilling for the past 25 years, renewing this protection each year in the form of a legislative moratorium contained in the appropriations bill for the United States Department of the Interior; and

WHEREAS, This offshore leasing moratorium also protects the coastline of Oregon and Washington, the entire United States eastern seaboard, and the southwest coast of Florida; and

WHEREAS, President George W. Bush's current White House budget for fiscal year 2007, released in January 2006, supports a continuation of this congressional offshore leasing moratorium; and

WHEREAS, A complementary measure, put in place by Executive action in 1991 by former President George H.W. Bush protects the same areas through enactment of the "Presidential Offshore Leasing Deferrals," which President William J. Clinton subsequently extended until 2012 to ensure that protected coastal areas would not be threatened by offshore drilling impacts; and

WHEREAS, The U.S. Congress has been discussing measures that would open our coast and the whole Outer Continental Shelf (OCS) to increased oil and gas drilling, including a recently rejected measure in the Interior Department appropriations bill that would lift the 25-year federal moratorium on gas drilling; and

WHEREAS, Other draft bills, including HR 4761, Jindal, known as the Domestic Energy Production Through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006, and HR 4318, Peterson, known as the Outer Continental Shelf Natural Gas Relief Act, would, if adopted, immediately void the entire bipartisan congressional offshore leasing moratorium and the longstanding presidential offshore drilling deferrals, while undermining states' rights by pressuring coastal jurisdictions to facilitate new federal offshore drilling by making a state's share of the federal revenues from these activities contingent on state approval of new and expanded federal offshore leasing; and

WHEREAS, Following the infamous 1969 oil spill that resulted in the spillage of 3,200,000 gallons of crude oil, fouling Santa Barbara County's ocean beaches, Californians became even more wary about offshore oil drilling, continuing with the passage of additional oil and gas leasing prohibitions in 1969, 1970, and 1971; and

WHEREAS, In 1994, the California Coastal Sanctuary Act of 1994 (Chapter 3.4 (commencing with Section 6240) of Part 1 of Division 6 of the Public Resources Code), became law, creating a comprehensive statewide coastal sanctuary that prohibits future oil and gas leasing in state waters, from Mexico to the Oregon border, in perpetuity, and adding leases to the sanctuary as they are quitclaimed to the state; and

WHEREAS, In addition, the protection of California's spectacular 1,100 mile coastline is of the utmost importance to a number of our state's coastal and ocean dependent industries, including tourism and commercial fishing, which contributed over fifty billion dollars ($50,000,000,000) to California's economy in 1999; and

WHEREAS, California's ocean waters are also home to four important sanctuaries, the Monterey Bay National Marine Sanctuary, the Gulf of the Farallones National Marine Sanctuary, the Cordell Bank National Marine Sanctuary, and the Channel Islands National Marine Sanctuary that are, by definition, areas of special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, and esthetic qualities; and are particularly sensitive to the impacts of oil development; and

WHEREAS, Additional offshore oil leasing and production would degrade the quality of our air and water, and adversely impact our marine resources, including severe impacts from seismic surveys on marine mammals, that could involve threatened and endangered species, including blue and humpback whales; and

WHEREAS, Offshore oil development poses a serious risk of oil spills, especially with the introduction of deepwater drilling technologies and floating oil storage and processing vessels, thereby threatening marine ecosystems, and could have devastating effects on the southern

sea otter, listed as a threatened species since 1997, as well as onshore wildlife, birds, and their habitats in the ocean, in estuaries, and on beaches; and

WHEREAS, Offshore oil development also leads to the industrialization of the shoreline, creating land use conflicts, visually degrading coastal areas, and posing potentially life threatening public safety risks; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that Congress continue the federal offshore oil and gas leasing moratorium for fiscal year 2007 and beyond; and be it further

Resolved, That the Legislature of the State of California respectfully opposes the damaging coastal provisions of proposed federal energy policies, including, but not limited to, the adoption of HR 4761, Jindal, known as the Domestic Energy Production Through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006, and HR 4318, Peterson, known as the Outer Continental Shelf Natural Gas Relief Act, or any other coastal provisions that weaken California's legitimate role in energy siting decisions due to the threat posed by such legislation to the economic integrity of California's coastal dependent tourism and fishing economies, and any consolidation of centralized offshore authority with the federal government; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Senate Concurrent Resolution No. 37—Relative to the Donald E. DeMers Highway.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, Donald E. DeMers served as the first and only Executive Director of the Fresno County Transportation Authority since 1987; and

WHEREAS, Donald E. DeMers graduated Magna Cum Laude from the University of North Dakota in 1966, with a bachelor's degree in Political Science; and

WHEREAS, Donald E. DeMers earned a master's degree in Political Science and Public Administration from the University of North Dakota in 1971; and

WHEREAS, During his tenure at the Fresno County Transportation Authority, Donald E. DeMers led the effort to construct freeways on State Highway Route 41, State Highway Route 180, and State Highway Route 168; and

WHEREAS, Fresno County was one of the first counties statewide to become a self-help county, taxing itself to augment road construction throughout the county. Donald E. DeMers led the county's representation on a committee which was formed of fellow self-help counties called the Self-Help Counties coalition throughout his time with the Fresno County Transportation Authority; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby officially designates the portion of State Highway Route 41 between Jensen and Elkhorn Avenues in the City of Fresno as the "Donald E. DeMers Highway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 139

Senate Concurrent Resolution No. 75—Relative to the Girl Scouts.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, Sunday, March 12, 2006, marks the 94th anniversary of the Girl Scouts of the United States of America; and

WHEREAS, In 1912, Juliette Gordon Low founded the Girl Scouts with just 18 girls and a dream in which she envisioned "something for all the girls," to enable them to better serve their communities, experience the outdoors, and contribute to national and international social development; and

WHEREAS, Ninety-four years later, her efforts are responsible for creating the largest girl-serving organization in the world with membership surpassing 2.8 million nationally, of which 225,000 are girls in California; and

WHEREAS, Nationwide 236,000 troops provide opportunities for girls between 5 and 17 years of age to discover the fun, friendship, and

power of girls together, as Daisy Girl Scouts, Brownie Girl Scouts, Junior Girl Scouts, Cadette Girl Scouts, and Senior Scouts; and

WHEREAS, During the 1960s, the Girl Scouts began programs and projects focused on overcoming prejudice and building relationships with those of all ages, religions, classes, and races; and

WHEREAS, That same social consciousness continues today as the Girl Scouts promote the ideals of acceptance, understanding, cultural awareness, and tolerance; and

WHEREAS, The Girl Scouts is an organization with a proud history of inclusion and acceptance, and has historically promoted diversity in its membership by accepting all girls and women, regardless of their race, religion, sexual orientation, economic background, national origin, disability, or medical condition; and

WHEREAS, In addition to their focus on the world around them, the Girl Scouts strive to develop each girl's potential through skill building, technological awareness, self-esteem and image promotion, and countless other opportunities that motivate and empower girls to grow and become leaders in their own right; and

WHEREAS, Because of this focus, Girl Scouts will lead businesses and communities, take active roles in mathematics, science, technology, and the arts, and are striving to fulfill our country's economic needs; and

WHEREAS, One in four American women has been a Girl Scout and the organization is committed to outreach efforts representing its reputation as the premier voice for girls and an expert on their growth and development; and

WHEREAS, Some 50 million women have enjoyed the benefits of the Girl Scout program, as an American tradition, for 94 years; and

WHEREAS, Of the 37 women currently serving in the California Legislature, at least 11 were members of, or leaders in, the Girl Scouts of the United States of America, including Assembly Members Chu, Daucher, Karnette, Lieber, Pavley, and Runner, and Senators Alquist, Bowen, Escutia, Migden, and Romero; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature acknowledges with pride the significant role the Girl Scouts has played in mentoring young women throughout California and the nation, as an organization "where girls grow strong"; and be it further

Resolved, That the Legislature commends the Girl Scouts of the United States of America for 94 years of service and for inspiring millions of girls with the highest ideals of confidence, courage, and character; and be it further

Resolved, That the Legislature encourages the people of California to participate in activities and celebrations appropriate to this occasion; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 140

Senate Concurrent Resolution No. 114—Relative to the Mignon "Minnie" Stoddard Lilley Memorial Bridge.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, Mignon "Minnie" Stoddard Lilley was a woman of many facets and dimensions; and

WHEREAS, Minnie was courageous, intelligent, creative, kind, stern, hard working, musically inclined, honest, religious, impetuous, practical, and also, by all accounts, quite an attractive woman; and

WHEREAS, Minnie was a teacher, environmentalist, homesteader, entrepreneur, healer, visionary, and a true pioneer in every sense of the word; and

WHEREAS, Minnie led a full vigorous life and was highly thought of by all who came in contact with her; and

WHEREAS, Minnie taught for over 40 years and left her mark on many young minds and occasionally, when necessary, on their backsides too; and

WHEREAS, Minnie lived in a time when a person was required to deal with the harsh realities of living on the "frontier." A person had to offer something of value to the community to become part of it and there were no free rides. In fact, during this time everyone walked; and

WHEREAS, As a teacher, Minnie offered the community something that was important to them and as a person she set a positive example for all by her unselfish concern for all those around her; and

WHEREAS, From 1904 to 1936, Minnie taught in the one room schoolhouses of the Andersonia/Piercy area. Minnie spent her entire teaching career in the County of Mendocino teaching at Usal, Moody, Bear Harbor, Alder Glen, Franklin, and Buck Mountain before settling down and staying in the Andersonia/Piercy area; and

WHEREAS, All these once thriving settlements have, for the most part, disappeared over the years; and

WHEREAS, Minnie can also lay claim to being the first schoolbus driver in the area because around 1919, having acquired a horse-drawn

buggie, she would pick up some of her students and give them a ride to school; and

WHEREAS, Minnie met William G. Lilley while she was teaching at Andersonia and they were married January 25, 1905, at the Grand Hotel in San Francisco. An article in the Fort Bragg Advocate newspaper described Mr. Lilley as being "one of Mendocino's most promising young men, a man of sterling principles" and the same article described Minnie as "a young lady of many accomplishments and one of Mendocino's most successful teachers;" and

WHEREAS, In the spring of 1904, Minnie set out to homestead a claim up the Eel River in the redwoods. For many years Minnie had walked over 5 miles to the schoolhouse so a solitary hike up the South Fork of the Eel River through some "darn tough country" was no big deal to her. A quote from a 1950 Humboldt Times article reads "as soon as the spring rains had subsided enough so that the Eel River could be crossed safely, she went into the depths of the redwood forest, fording on a homemade raft the turbulent waters, and set up her location markers;" and

WHEREAS, Minnie then hired a man to build her a simple one room cabin on the property. Minnie loved telling people about her first night in the cabin, all alone way out there in the forest which she spent "with prayer on my lips and a pistol in my hand;" and

WHEREAS, Minnie had "true grit" and started making a habit to travel to her cabin on weekends, weather permitting. On one occasion, Minnie arrived to find that three men were there with the intentions of jumping her claim and were building a cabin on her property. What actually transpired between Minnie and the would-be claim jumpers was never known, but it is known that she stayed and they did not; and

WHEREAS, Around 1925, Minnie and William bought a 55 acre parcel adjoining the homestead and that property included a particular tree Minnie lovingly called "The Fraternal Monarch." This amazing redwood tree stands over 250 feet tall, is 101 feet in circumference, and has had the center burned out by a fire some 300 years ago. Today this tree is known as "The World Famous Tree House;" and

WHEREAS, When William and Minnie bought the property, there were no roads of any kind along the Eel River; and

WHEREAS, In 1919, construction of the Redwood Highway through the canyon of the South Fork of the Eel River began; and

WHEREAS, In 1929, Minnie and William started building a few small cabins near The World Famous Tree House; and

WHEREAS, On May 14, 1931, for the sum of $10, the Lilley's deeded enough land to the State of California to make improvements to the new road that ran through their property; and

WHEREAS, During construction of the highway, the tree house was a camp for the convict labor that was used to work on the road. These men actually used the old burned out tree as a shelter to sleep in; and

WHEREAS, Now that tourists were visiting the redwoods, William and Minnie were in a great position to benefit from this new situation; and

WHEREAS, One day, Minnie decided to put a gift shop inside The World Famous Tree House and she had a floor, windows, and a door fitted to the measurements of the burned out hole in the redwood. This was one of the very first gift shops on the Redwood Highway; and

WHEREAS, On March 8, 1947, Minnie, a remarkable pioneering woman, passed away and, according to her wishes to be with her beloved trees through eternity, she was interred in her mausoleum right near The Fraternal Monarch; now, therefor, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the contributions of Mignon "Minnie" Stoddard Lilley to the history of California and designates the new South Fork Eel River Bridge (Bridge number 10-0299, Kilometer Post 160.03), located on State Highway Route 101, in the County of Mendocino near Confusion Hill, as the Mignon "Minnie" Stoddard Lilley Memorial Bridge; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 141

Senate Concurrent Resolution No. 120—Relative to Caltrans Highway Maintenance Lead Worker Michael (Flea) Feliciano Memorial Highway.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, Michael (Flea) Feliciano was born on January 25, 1949, in Monterey, California; and

WHEREAS, Michael (Flea) Feliciano graduated from Pacific Grove High School and Monterey Peninsula College where he majored in Police Science; and

WHEREAS, Michael (Flea) Feliciano played varsity baseball all four years in high school, was the first athlete at Pacific Grove High School to receive All Mission Trail Athletic League three years in a row as a varsity pitcher, and played as a semipro baseball pitcher from 1967 to 1976; and

WHEREAS, In 2004, Michael (Flea) Feliciano was the District 5 Maintenance Lead Worker of, and an eleven-year employee with, the Department of Transportation (Caltrans); and

WHEREAS, Prior to working for Caltrans, Michael (Flea) Feliciano worked for 14 years for the City of Seaside Parks Department and was responsible for all irrigation of parks, islands, and medians; and also worked for the Fort Ord Golf Course and the Garnerville Ranchos District; and

WHEREAS, Michael (Flea) Feliciano was a state-certified water auditor, a member of the Northern California Turf Council, and a member of the National Crisis Prevention Institute; and

WHEREAS, On February 25, 2004, Michael (Flea) Feliciano's crew was returning to the maintenance yard in Salinas after closing a lane due to storm flooding on State Highway Route 101 when an errant driver crossed the highway median and slammed into the truck Michael (Flea) Feliciano was driving, killing Michael (Flea) Feliciano; and

WHEREAS, Michael (Flea) Feliciano was the 159th Caltrans worker to be killed in the line of duty since 1924; and

WHEREAS, Michael (Flea) Feliciano is survived by his wife of 34 years, Marty Feliciano, and three brothers and one sister; and

WHEREAS, Michael (Flea) Feliciano was an excellent golfer and, with his wife Marty, worked to find homes for abandoned and stray animals through the Monterey County SPCA, the Humane Society of the United States, and the World Wildlife Fund; and

WHEREAS, As a highway worker, Michael (Flea) Feliciano faced dangers on a daily basis; and

WHEREAS, It is important and fitting that we pay tribute to and commemorate the life and memory of Michael (Flea) Feliciano; and

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby officially designates that portion of State Highway Route 101 north of Chualar between Payson Street and Esperanza Road in Monterey County as the "Caltrans Highway Maintenance Lead Worker Michael (Flea) Feliciano Memorial Highway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing these special designations, and upon receiving donations from nonstate sources

sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 142

Senate Concurrent Resolution No. 124—Relative to recognizing the 50th anniversary of the Interstate Highway System, especially in California.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, On June 29, 1956, President Dwight D. Eisenhower signed the Federal-Aid Highway Act of 1956 to establish a 41,000-mile National System of Interstate and Defense Highways, known as the Interstate Highway System, and the Highway Revenue Act of 1956 to create the national Highway Trust Fund; and

WHEREAS, In 1990, the National System of Interstate and Defense Highways was renamed the Dwight D. Eisenhower National System of Interstate and Defense Highways to recognize President Eisenhower's role in the creation of the system; and

WHEREAS, In 2006, this network of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on our national life; and

WHEREAS, In 2006, this network of superhighways, primary Interstate Routes 5, 10, 15, 40, and 80 throughout the great State of California, has had a powerful and positive impact on our California life style; and

WHEREAS, This system was designed and engineered by Department of Transportation (Caltrans) employees and the retired employees of the California Division of Highways, Caltrans' predecessor agency, and today is managed and maintained by the employees of Caltrans for the benefit of all Californians and our visitors; and

WHEREAS, The Interstate Highway System has proven vital in transporting people and goods from one region to another speedily and safely; and

WHEREAS, The Interstate Highway System has facilitated trade and commerce both within our national borders and globally and helped create unprecedented economic expansion and opportunities for millions of Californians and our visitors; and

WHEREAS, The Interstate Highway System has brought diverse communities throughout our country and state closer together and kept us connected to one another as well as to the larger world; and

WHEREAS, The Interstate Highway System has made it easier and often more enjoyable to travel to long-distance destinations and spend time with family members and friends who live far away; and

WHEREAS, The Interstate Highway System is a pivotal component in our national system of defense and emergency preparedness efforts; and

WHEREAS, The Interstate Highway System remains one of our state's paramount assets as well as a symbol of human ingenuity and freedom; and

WHEREAS, This anniversary provides an occasion to both honor one of the largest public works achievements of all time and reflect on how it can remain effective in the years ahead; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the Golden Anniversary Year of the Dwight D. Eisenhower National System of Interstate and Defense Highways; and be it further

Resolved, That the achievements of the current and retired employees of Caltrans, its predecessor agency, the California Division of Highways, and the highway construction industry, including contractors, materials producers, equipment companies, and affiliated labor unions, are recognized for their contributions to the construction of the Interstate Highway System; and be it further

Resolved, That citizens, communities, government agencies, and other organizations are encouraged to promote and participate in celebratory and educational activities marking this uniquely important and historic milestone; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 143

Senate Joint Resolution No. 3—Relative to the Ronald Reagan statue.

[Filed with Secretary of State September 8, 2006.]

WHEREAS, By act of the Congress of the United States, each state is invited to provide two statues of distinguished citizens for display in the United States Capitol; and

WHEREAS, California, in years past, provided two statues of notable citizens that have been displayed in the United States Capitol since 1931; and

WHEREAS, One of the those statues is of Thomas Starr King, known as "the orator who saved the nation." He spoke out fervently in favor of the union during the Civil War and is credited with saving California from becoming a separate republic; and

WHEREAS, Thomas Starr King can best be memorialized by locating his statue in a place of honor in the Capitol of California where citizens and visitors can enjoy it and be reminded of his significant historical impact upon our state; and

WHEREAS, California has a citizen, Ronald Wilson Reagan, who is exceptionally worthy of national commemoration. He stands alone in California history as a beloved actor, President of the Screen Actors Guild, two-term Governor of California, and two-term President of the United States; and

WHEREAS, Affectionately known as the "Great Communicator," Ronald Wilson Reagan served as the 40th President of the United States and was the first Governor of California to be elected President of the United States; and

WHEREAS, The people of California wish to place a statue of Ronald Wilson Reagan in Statuary Hall in the United States Capitol, with the statue being provided by the citizens of California through the efforts of the Ronald Reagan Presidential Foundation; and

WHEREAS, The Ronald Reagan Presidential Foundation shall select a commission to represent the state in selecting the sculptor or sculptors to sculpt the statue and obtain the necessary funds to carry out this resolution; and

WHEREAS, The Ronald Reagan Presidential Foundation shall be responsible for all of the following:

(a) Forming a commission to select the sculptor or sculptors.

(b) Paying the sculptor or sculptors to carve or cast the statue.

(c) Creating a pedestal and desired inscription.

(d) Transporting the statue and pedestal to the United States Capitol.

(e) Removing and transporting the replaced statue of Thomas Starr King back to the California State Capitol.

(f) Temporarily erecting the new statue of Ronald Wilson Reagan in the Rotunda of the United States Capitol for the unveiling ceremony.

(g) Paying the expenses related to the unveiling ceremony and any other expenses that the commission may find necessary to incur in implementing this resolution; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully

memorializes the Congress of the United States to place a statue of Ronald Wilson Reagan alongside the statue of Father Junipero Serra in the Congressional collection representing the State of California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 144

Assembly Concurrent Resolution No. 156—Relative to the Martin A. Matich Highway.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, Martin A. Matich is deserving of special public commendation in recognition of his exemplary career and of his civic achievements as a council member and a citizen of California's Inland Empire; and

WHEREAS, Martin A. Matich served as a Colton City Council member from 1956 to 1958, and served as the mayor of the City of Colton from 1958 to 1960; and

WHEREAS, Martin A. Matich's productive career includes serving since 1950 as the president and then the chairman of Matich Corporation, which has been a California company since 1918 and which was founded by his father, John Matich; and

WHEREAS, Martin A. Matich has helped the Matich Corporation become a leader in providing the finest highways, airports, and public works projects for over 80 years; and

WHEREAS, Martin A. Matich also has served his community and state as a member of the Loma Linda University Medical Center, the Loma Linda University Children's Hospital, and the St. Bernardine's Medical Center; as a member of the board of the National Orange Show Foundation; as a member of the board of the Boy Scouts of America-Inland Empire Council; as a member of the board of the Girl Scouts of America-San Gorgonio Council; and as a member and past director of the San Bernardino Chamber of Commerce; and

WHEREAS, This exceptional community leader has provided endowed scholarships to the University of Notre Dame under the names of the John Matich Undergraduate Scholarship and the Joyce Athletic

Scholarship, and has provided a scholarship to the University of Redlands in the name of Williamina Matich; and

WHEREAS, It is proper and fitting that Martin A. Matich be honored for his exemplary career, as well as for his constant record of leadership on state transportation issues and, in particular, his long-term support for the construction of the Foothill Freeway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 30, which is to be renamed State Highway Route 210, from the existing interchange of State Highway Route 30 and State Highway Route 215, at post mile 21.84 in the City of San Bernardino, to the existing interchange of State Highway Route 30 and State Highway Route 10, at post mile 33 in the City of Redlands, be officially designated as the "Martin A. Matich Highway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special designation, and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 145

Assembly Concurrent Resolution No. 157—Relative to the Filipino-American Highway.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, Filipino-Americans have made many contributions to our state and nation; and

WHEREAS, Among the many past and present Filipino-American historical figures is Carlos Bulosan, a novelist and poet best known for the semi-autobiographical "America is in the Heart," who was active in labor politics along the Pacific coast of the United States and edited the 1952 yearbook for I.L.W.U. Local 37, a predominantly Filipino-American cannery union based in Seattle. Other Filipino-American historical figures include, Philip Veracruz, a labor leader who helped to found the United Farmworkers Union with Cesar Chavez, and Major General Edward Soriano, the only Filipino-American to have attained the rank of general in the U.S. Armed Forces. Major General Edward Soriano was born in

Pangasinan and migrated to the United States with his family at an early age. In 2001, he was the director of operations, readiness, and mobilization at the office of America's Deputy Chief of Staff for Operations and Plans; and

WHEREAS, In the County of San Diego, Filipino-Americans are the largest Asian Pacific Islander group, making up 4.3 percent of the population of the country, with many living in National City, Chula Vista, and Southern San Diego; and

WHEREAS, Their presence and influence is easily seen as it is not uncommon to see Filipino-Americans serving the community as, among other things, professors, doctors, lawyers, business leaders, peace officers, and military personnel; and

WHEREAS, Major Filipino-American groups in the County of San Diego include the Filipino American Educators Association of San Diego County, the Council of Philippine American Organizations of San Diego County, and the Filipino American Chamber of Commerce of San Diego County; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes the contributions of Filipino-Americans to the State of California and designates the portion of State Highway Route 54 from its westernmost point to its intersection with State Highway Route 125, in the County of San Diego, as the Filipino-American Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate signs consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 146

Assembly Concurrent Resolution No. 159—Relative to Sudden Cardiac Arrest Awareness Day.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, Nationwide more than 325,000 Americans die each year from sudden cardiac arrest, which amounts to 900 people per day at a rate of one person every 90 seconds; and

WHEREAS, More Americans die each year from sudden cardiac arrest than from cancer and car accidents combined; and

WHEREAS, Almost 95 percent of sudden cardiac arrest victims die before they reach a hospital or obtain other emergency medical attention; and

WHEREAS, Eighty percent of sudden cardiac arrests are caused by ventricular fibrillation, a heart rhythm variance for which defibrillation and cardiopulmonary resuscitation (CPR) are the only effective treatments; and

WHEREAS, Sudden cardiac arrest causes the brain to begin dying within four to six minutes of onset. For every minute that passes while a person is experiencing sudden cardiac arrest, chances of survival decrease by 10 percent. After six minutes, according to studies conducted by the Mayo Clinic, the chance of resuscitating a sudden cardiac arrest victim is almost zero; and

WHEREAS, While sudden cardiac arrest is one of the leading causes of death in the United States, Automated External Defibrillators (AEDs) can prevent these deaths. AEDs enable medical and nonmedical rescuers to deliver a potentially lifesaving defibrillation to sudden cardiac arrest victims. The national sudden cardiac arrest survival rate without defibrillation and CPR is less than 5 percent; and

WHEREAS, The State of California has already mandated that health studios have an AED; and

WHEREAS, The federal government has already mandated every commercial airplane to have an AED on board; and

WHEREAS, A sudden cardiac arrest event is 30 times more likely to occur in a school than on an airplane; and

WHEREAS, On any given day, 20 percent of the population, both adults and children, occupy our nation's schools; and

WHEREAS, An estimated 3,000 to 5,000 schoolaged children die each year from sudden cardiac arrest. In the United States, one out of every 100,000 to 300,000 high school athletes will die each year from sudden cardiac arrest; and

WHEREAS, In communities with strong public access defibrillation programs, the sudden cardiac arrest survival rate, when defibrillation and CPR are provided within the first three minutes, is up to 75 percent; and

WHEREAS, Education, training, and preparedness are critical factors in the ability to successfully save the life of a sudden cardiac arrest victim; and

WHEREAS, Heightened public awareness of how critical time is in providing treatment to sudden cardiac arrest victims can help save lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims September 12, 2006, as Sudden Cardiac Awareness Day, and designates the state's observance of September 12 of following years as a commemorative holiday for public schools and public agencies to observe Sudden Cardiac Awareness Day thereby honoring and memorializing those who have fallen victim to sudden cardiac arrest, and celebrating those who have survived by the timely use of an Automated External Defibrillator and cardiopulmonary resuscitation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 147

Assembly Concurrent Resolution No. 163—Relative to Oceano Dunes State Vehicular Recreation Area.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, Oceano Dunes State Vehicular Recreation Area, located near Pismo Beach, California, is a 4,900-acre state park, and is a unique location where affordable beach camping, off-highway vehicle recreation, and environmental protection coexist; and

WHEREAS, Oceano Dunes State Vehicular Recreation Area is a unique, 100-year old phenomenon in California and is a significant part of the state's history and culture; and

WHEREAS, The popular off-road recreation area, previously known as Pismo Dunes to generations of off-road vehicle afficionados, and now known as Oceano Dunes State Vehicular Recreation Area, has a long history of use for beach and dune vehicular recreation and transportation; and

WHEREAS, For as long as California has been a state, the area formerly known as Pismo Dunes has been used as an easy transportation route along the coast, including for proposed developments during the late 1800s and early 1900s; and

WHEREAS, In the early 1900s, as the automobile became popular, large automobile meets were organized, which drew thousands of people to watch races along the flat coastal speedway running from the City of Pismo Beach to Mussel Rock, or "Devil's Slide" in the local parlance; and

WHEREAS, In the 1930s, the local community, after consulting with the famous land speed record holder and pioneer automobile racer,

Barney Oldfield, adopted an objective to turn Pismo Beach into a formal "Daytona Beach of the West," with the first land speed record attempts in 1931; and

WHEREAS, By the 1950s, stock car speed trials were approved by the County of San Luis Obispo and were held at Oceano Dunes beach; and

WHEREAS, In the 1950s, the first dune buggy was created at Oceano Dunes beach, which generated an increasingly popular off-highway vehicle trend that has evolved into a multibillion dollar industry in California; and

WHEREAS, In 1972, a portion of the area now known as Oceano Dunes State Vehicular Recreation Area was acquired by the state as a state park; and

WHEREAS, The Legislature in 1982 adopted the Off-Highway Motor Vehicle Recreation Act of 1982, which established lands for off-highway motor vehicle recreation opportunities and directed the Department of Parks and Recreation to create Pismo Dunes State Vehicular Recreation Area, since renamed Oceano Dunes State Vehicular Recreation Area; and

WHEREAS, In managing Oceano Dunes State Vehicular Recreation Area, the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation has endeavored to balance the needs of off-highway vehicle users and protection of the environment; and

WHEREAS, Extensive environmental stewardship measures have taken place at Oceano Dunes State Vehicular Recreation Area; and

WHEREAS, Conservation measures at Oceano Dunes State Vehicular Recreation Area are paid for by off-highway vehicle recreationists through service, special, and user fees, which are deposited in the Off-Highway Vehicle Trust Fund; and

WHEREAS, Oceano Dunes State Vehicular Recreation Area provides an inexpensive camping area along the beach that has attracted thousands of visitors primarily from the Los Angeles urban area and the Central Valley; and

WHEREAS, Oceano Dunes State Vehicular Recreation Area receives more than 2.1 million annual visitors from throughout the state, with over 50 percent from the Central Valley, and has higher annual visitation per acre than any other state park in the state; and

WHEREAS, Friends of Oceano Dunes, a nonprofit organization, was formed in 2001 by off-road recreationists and businesses to work with the Department of Parks and Recreation for the betterment of Oceano Dunes State Vehicular Recreation Area by enhancing and preserving the recreation area; and

WHEREAS, The Legislature acknowledges the exemplary efforts of the volunteer user group, Friends of Oceano Dunes, which has advocated for and contributed untold hours of community service to Oceano Dunes State Vehicular Recreation Area; and

WHEREAS, The year 2006 marks the 100th anniversary of recreational motor vehicle use at Oceano Dunes, which will be celebrated from October 20, 2006, to October 22, 2006, at Oceano Dunes State Vehicular Recreation Area; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby commemorates the 100th anniversary of recreational motor vehicle use at Oceano Dunes State Vehicular Recreation Area and congratulates the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for its management of Oceano Dunes State Vehicular Recreation Area for the public good; and be it further

Resolved, That the Legislature of the State of California hereby declares October 20, 2006, to October 22, 2006, as Oceano Dunes State Vehicular Recreation Area Days; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 148

Assembly Concurrent Resolution No. 165—Relative to Red Ribbon Week.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, Californians for Drug-Free Youth, Inc. (CADFY), a statewide parent-community organization, the office of the Governor, the office of the Attorney General, the Department of Alcohol and Drug Programs, the State Department of Education, the California Parent Teacher Association, and over 100 other statewide agencies, departments, and organizations are cosponsoring October 23 through 31, 2006, as the period that includes Red Ribbon Week; and

WHEREAS, The National Family Partnership, Inc. initiated the Red Ribbon Campaign after Drug Enforcement Administration Agent Enrique "Kiki" Camarena was killed in Mexico by drug traffickers in 1985; and

WHEREAS, Parents, youth, schools, businesses, law enforcement, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the state will demonstrate their commitment to drug-free, healthy lifestyles by

wearing and displaying red ribbons during this weeklong celebration; and

WHEREAS, The theme of this year's effort is "Freedom is Drug-Free, Plant the Promise"; and

WHEREAS, Drug abuse stands as one of the major challenges our state faces in securing a safe and healthy future for our children; and

WHEREAS, The objective of Red Ribbon Week 2006 will be to promote this view through drug prevention, education, parental involvement, and communitywide support; and

WHEREAS, The Assembly of the State of California has further committed its resources to ensure the success of the Red Ribbon Week celebration; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims its support for the Red Ribbon Week celebration by proclaiming the period of October 23 through 31, 2006, as including Red Ribbon Week; and be it further

Resolved, That the Legislature encourages all Californians to help build drug-free communities and to participate in drug prevention activities by making a visible statement that we are firmly committed to healthy, productive, and drug-free lifestyles; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor of the State of California, and to the author for appropriate distribution throughout the community.

RESOLUTION CHAPTER 149

Assembly Concurrent Resolution No. 168—Relative to firefighters.

[Filed with Secretary of State September 12, 2006.]

WHEREAS, The California Firefighters Memorial, located on the grounds of the State Capitol, serves to honor those California firefighters who unwaveringly serve our great state with pride, courage, and honor; and

WHEREAS, The memorial is also a symbol of gratitude and appreciation to the men and women of the fire service who put their lives on the line everyday to protect the people, property, and beauty of California; and

WHEREAS, Each of the nearly 1,000 names engraved on the brushed limestone walls of the memorial serves as a tribute to the finest and bravest of our state who have made the ultimate sacrifice as firefighters; and

WHEREAS, On October 14, 2006, firefighters and their families from throughout the state will gather in Sacramento with their fellow Californians for the 2006 California Firefighters Memorial Annual Ceremony to honor the men and women who have given their lives to protect California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates Saturday, October 14, 2006, as California Firefighters Memorial Day, and urges all Californians to remember the firefighters who have given their lives in the line of duty and express appreciation to those who everyday continue to protect our families, hopes, and dreams; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 150

Assembly Concurrent Resolution No. 58—Relative to foster youth.

[Filed with Secretary of State September 21, 2006.]

WHEREAS, Ninety-five thousand foster youth are in care in California. In removing a child from his or her family and placing that child in foster care, the state and counties assume enormous responsibility. Both the state and counties commit to protecting these children and ensuring that these children thrive and develop the skills, supports, and enduring relationships that will sustain them into adulthood; and

WHEREAS, Foster youth are uniquely vulnerable, because they are completely dependent on the state to meet their needs, and require additional protection, resources and support to make a successful transition to adulthood; and

WHEREAS, The Legislature has recognized the importance of the rights of foster youth by enacting numerous measures to ensure and strengthen those rights, and has further expressed the intent to ensure that the rights of children in out-of-home placement are preserved and not infringed upon; and

WHEREAS, The Legislature has recognized the need to expand the foster youth bill of rights to include specific education and higher education rights, noting that education is the foundation and key to self-sufficiency for many foster youth; and

WHEREAS, If members of the child welfare community and the public are unaware of the rights of foster youth, they are unable to meet

their collective responsibility to ensure foster youth are cared for and have adequate access to information; and

WHEREAS, Foster youth often lack access to information about their rights and available resources in their community. When youth are aware of their rights in foster care, they are able to self-advocate, which is critical to their success. It is necessary that all foster youth know that they have specific rights, and that they know they can call the Office of the State Foster Care Ombudsperson if there is a violation of those rights; and

WHEREAS, Education outreach by the state and local foster care ombudsperson offices to foster youth and the child welfare community needs to be consistently supported to ensure that the rights afforded foster youth are meaningful. In recent years, the travel abilities of the Office of the State Foster Care Ombudsperson have been limited due to budget concerns; and

WHEREAS, Nearly one in every four calls to the Office of the State Foster Care Ombudsperson reports a violation of a foster youth's rights. There is a need to expand the scope of the Office of the State Foster Care Ombudsperson to include the ability to independently report to the public and the Legislature regarding the concerns and complaints of foster youth; and

WHEREAS, Two promising steps toward the ensuring that foster youth are informed of their rights and have access to the resources needed to be successful are the creation of local foster care ombudsperson offices and the centralization of all resources to foster youth in a "one stop center"; and

WHEREAS, All individuals in the child welfare community share responsibility for ensuring that foster youth know their rights and are informed of available education, employment, housing, health, and financial resources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes that the rights of foster youth are critical to ensuring their well-being and future; and be it further

Resolved, That the Legislature urges the State Department of Social Services, the State Department of Education, the State Department of Health Services, the State Department of Mental Health, the County Welfare Directors Association of California, the National Association of Social Workers, the California Judicial Council, the California State Foster Parent Association, the California Alliance for Children and Family Services, and the California Chief Probation Officers Association to develop practices that assist foster youth in understanding their rights and the resources available to support them both in foster care and as they transition out of the foster care system; and be it further

Resolved, That the Chief Clerk of the Assembly transmit this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 151

Assembly Concurrent Resolution No. 114—Relative to a Legislative Task Force on Diabetes and Obesity.

[Filed with Secretary of State September 21, 2006.]

WHEREAS, Obesity is the cause of many different types of health problems; and

WHEREAS, There is an alarming increase in cases of diabetes in this country, especially among Latinos, African-Americans, Asian Pacific Islanders, and Native Americans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Task Force on Diabetes and Obesity is hereby established, which shall consist of 22 members, designated as follows:

(a) Five members shall be Members of the Assembly, designated by the Speaker of the Assembly.

(b) Five members shall be Senators, designated by the Senate Committee on Rules.

(c) The Speaker of the Assembly shall designate two representative members from among the following institutions: UC Irvine, UC Los Angeles, UC Merced, UC Riverside, and UC Santa Barbara; one member representing Charles R. Drew University; and two members representing the public.

(d) The Senate Committee on Rules shall designate three representative members from among the following institutions: UC Berkeley, UC Davis, UC San Francisco, UC San Diego, and UC Santa Cruz; one representative from the American Diabetes Association; one representative from the American Heart Association; and two members representing the public; and be it further

Resolved, That the task force is authorized to use existing resources to support its activities, but should be allowed to solicit funding from public and private foundations, and make use of available federal funds; and be it further

Resolved, That the task force shall study the factors contributing to the high rates of diabetes and obesity in Latinos, African-Americans, Asian Pacific Islanders, and Native Americans in this country and shall, not later than December 31, 2007, prepare a report containing

recommendations regarding ways to reduce the incidence of those debilitating conditions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 152

Assembly Concurrent Resolution No. 161—Relative to the Joint Legislative Committee on Emergency Services and Homeland Security.

[Filed with Secretary of State September 21, 2006.]

WHEREAS, California is the site of some of the most extraordinary natural disasters in North America, including fires, earthquakes, floods, landslides, mudslides, insect infestations, and drought; and

WHEREAS, California is the nation's most populous state, and is home to many of the nation's most critical military installations, industrial facilities, ports, academic institutions, and tourist destinations, and as such California is especially vulnerable to potential acts of terrorism; and

WHEREAS, The failed governmental response to Hurricane Katrina in 2005 indicates an immediate need to continue to assess and improve upon California's emergency preparedness and response plans, especially in the areas of: the specific roles of local, state, and federal agencies; evacuation planning; interoperable communication systems; emergency warning protocols; and private sector preparedness; and

WHEREAS, The emerging threat of avian and pandemic flu could also present unprecedented challenges to the state's public health system and thus place at risk the state's residents and our economy; and

WHEREAS, On November 2, 2003, then-Governor Gray Davis and then-Governor-elect Arnold Schwarzenegger established a Blue Ribbon Fire Commission representing federal, state, and local agencies, the firefighting community, and affected communities; and

WHEREAS, The Blue Ribbon Fire Commission was established to conduct a review of the efforts to fight the October 2003 fires and present recommendations to make California less vulnerable to disasters of such enormity in the future; and

WHEREAS, The commission, in its report to the Governor, made a number of recommendations and prioritized their importance, including the establishment of a permanent Joint Legislative Committee on Emergency Services and Homeland Security; and

WHEREAS, The Joint Legislative Committee on Emergency Services and Homeland Security, established by Resolution Chapter 106 of the Statutes of 2005, has reviewed the November 2005, recommendations of the Blue Ribbon Fire Commission and has taken action in support of the commission's findings and recommendations. The joint committee has also conducted numerous hearings on the subject of emergency preparedness and homeland security issues; and

WHEREAS, The members of the joint committee and the Legislature recognize that the work of the joint committee needs to continue; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Committee on Emergency Services and Homeland Security is authorized to act until November 30, 2008, when its existence shall terminate; and be it further

Resolved, That the joint committee shall consist of 14 members, and shall include seven Assembly Members appointed by the Speaker of the Assembly, four from the party having the largest number of Members in the Assembly and three from the party having the second largest number of Members, and seven Senators appointed by the Senate Committee on Rules, four from the party having the largest number of Members in the Senate and three from the party having the second largest number of Members; and be it further

Resolved, That the joint committee shall be under the direction of a chairperson and vice chairperson that shall alternate between the Assembly and the Senate from session to session, and that initially the joint committee shall be under the direction of a Senate Chairperson and an Assembly Vice Chairperson, appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively; and be it further

Resolved, That the joint committee may provide a public forum for discussion of California's emergency services and homeland security and issues related to natural or human-caused threats to California; and be it further

Resolved, That the joint committee, in order to assist it in carrying out its duties, may form technical advisory committees, including representatives from the public safety and emergency services disciplines, to help evaluate federal, state, and local strategies, provide technical assistance on an ongoing basis, and take active roles in supporting the passage of any necessary legislation; and be it further

Resolved, That the joint committee may work in cooperation with the Governor and the standing committees and subcommittees of the Legislature to address the level of support necessary for public safety and related agencies to implement essential emergency services and homeland security policies; and be it further

Resolved, That the joint committee may periodically report its progress and make recommendations to the Governor and the Legislature; and be it further

Resolved, That the joint committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Assembly and Senate as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the Senate Committee on Rules may make moneys available from the Senate Operating Fund, as it deems necessary, to pay expenses of the joint committee and its members, and that any expenditure of moneys shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

2005–06

FIRST EXTRAORDINARY SESSION

EXTRAORDINARY SESSION SPECIAL RULES OF EFFECTIVENESS

Except for a statute calling an election, a statute providing for a tax levy or an appropriation calling for the usual current expenses of the state, and an urgency statute, all of which take effect immediately following enactment, a statute adopted during an extraordinary session takes effect on the 91st day following the adjournment of the special session (see subdivision (c) of Section 8 of Article IV of the California Constitution). The effective date of a concurrent or joint resolution is the date it is filed with the Secretary of State.

The 2005–06 First Extraordinary Session reconvened in the Assembly on January 5, 2006, and in the Senate on January 4, 2006, and adjourned *sine die* on November 30, 2006. No statutes were enacted at the 2005–06 First Extraordinary Session.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

A PROCLAMATION

BY THE GOVERNOR OF THE STATE OF CALIFORNIA

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by Section 3(b) Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California on the 6th day of January, 2005, at a time to be determined, for the following purpose and to legislate upon the following subjects:

1. To consider and act upon a Constitutional amendment to be placed before the voters and related legislation to reform the State's budget process so that government will be better able to keep spending within the amount of available revenues and thereby avoid budget deficits, and to require reductions in state expenditures when they exceed State revenues; and

2. To consider and act upon a Constitutional amendment to be placed before the voters and related legislation to reform the pension systems for future government employees from one that provides retirees a defined retirement benefit, to one that requires the state to pay a defined or fixed contribution each year into employee pension accounts; and

3. To consider and act upon a Constitutional amendment to be placed before the voters and related legislation to reform education by basing employment decisions concerning school teachers and administrators, including their compensation, on their successful performance not their longevity of service and to require more fiscal transparency and accountability on the part of local school districts; and

4. To consider and act upon a Constitutional amendment to be placed before the voters and related legislation that will reform the process of drawing California's legislative, congressional and Board of Equalization districts in order to ensure that the process of apportioning legislative, congressional and Board of Equalization districts is fair and equitable and free of undue political or partisan influences.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 5th day of January, 2005.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

KEVIN SHELLEY

STATUTES OF CALIFORNIA

2005–06

FIRST EXTRAORDINARY SESSION

2006 CHAPTERS

None.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

2005–06

FIRST EXTRAORDINARY SESSION

2006 RESOLUTION CHAPTERS

None.

2005–06

SECOND EXTRAORDINARY SESSION

EXTRAORDINARY SESSION SPECIAL RULES OF EFFECTIVENESS

Except for a statute calling an election, a statute providing for a tax levy or an appropriation calling for the usual current expenses of the state, and an urgency statute, all of which take effect immediately following enactment, a statute adopted during an extraordinary session takes effect on the 91st day following the adjournment of the special session (see subdivision (c) of Section 8 of Article IV of the California Constitution). The effective date of a concurrent or joint resolution is the date it is filed with the Secretary of State.

The 2005–06 Second Extraordinary Session convened on June 27, 2006, and adjourned *sine die* on November 30, 2006. No statutes were enacted at the 2005–06 Second Extraordinary Session.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

A PROCLAMATION

BY THE GOVERNOR OF THE STATE OF CALIFORNIA

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by Section 3(b) Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California on the 27th day of June 2006, at a time to be determined, for the following purpose and to legislate upon the following subjects:

1. To consider and act upon legislation to transfer low-risk women inmates out of state prison and into community correctional facilities.

2. To consider and act upon legislation to appropriate funds, including appropriations for lease-revenue bonds, to build additional prisons.

3. To consider and act upon legislation to establish and fund secure re-entry facilities.

4. To consider and act upon legislation to expedite and streamline the state contracting process for implementing programs and construction of additional prisons and secure re-entry facilities.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 26th day of June, 2006.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

BRUCE McPHERSON
Secretary of State

STATUTES OF CALIFORNIA

2005–06

SECOND EXTRAORDINARY SESSION

2006 CHAPTERS

None.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

2005–06

SECOND EXTRAORDINARY SESSION

2006 RESOLUTION CHAPTERS

None.