Volume 1

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

2007

Constitution of 1879 as Amended

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

2007–08 Regular Session
2007–08 First Extraordinary Session
2007–08 Second Extraordinary Session

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APPENDIX

EFFECTIVE DATES

Regular Session

The 2007–08 Regular Session convened on December 4, 2006, and the interim study recess commenced on September 14, 2007. Statutes enacted in 2007, other than those taking immediate effect, will become effective January 1, 2008.

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

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

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

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

Extraordinary Sessions

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

The 2007–08 First Extraordinary Session convened on September 11, 2007. This Extraordinary Session had not been adjourned prior to publication of this Statutes and Amendments to the Codes; please refer to the succeeding year's Statutes and Amendments to the Codes.

The 2007–08 Second Extraordinary Session convened on September 11, 2007. This Extraordinary Session had not been adjourned prior to publication of this Statutes and Amendments to the Codes; please refer to the succeeding year's Statutes and Amendments to the Codes.

CONSTITUTION OF THE STATE OF CALIFORNIA

1879

CONSTITUTION OF THE STATE OF CALIFORNIA*

AS AMENDED AND IN FORCE NOVEMBER 7, 2006

PREAMBLE

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

ARTICLE I

DECLARATION OF RIGHTS

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

[*Inalienable Rights*]

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

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

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

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

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

* Adopted by the people on May 7, 1879. Certain spelling and capitalization variances reflect State Printer's style in effect at time of adoption of amendments.

As used in this subdivision, ''unpublished information'' includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated. [*As amended June 3, 1980.*]

[*Right to Assemble and to Petition—Right of Access to Government Information*]

SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect

the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses. [*As amended November 4, 2004.*]

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

[*Liberty of Conscience*]

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

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

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

[*The Military*]

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

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

[*Slavery Prohibited*]

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

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

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

sponsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

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

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

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

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

[*Privileges and Immunities*]

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked. [*As amended November 6, 1979.*]

[*Sex, Race, Etc., Not a Disqualification for Business*]

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

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

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

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

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

[*Detention of Witnesses—No Imprisonment for Debt*]

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

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

[*Suspension of Habeas Corpus*]

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

[*Bail—Release on Own Recognizance*]

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

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

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

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

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

A person may be released on his or her own recognizance in the court's discretion. [*As amended November 8, 1994.*]

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

[*Unreasonable Seizure and Search—Warrant*]

SEC. 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported

by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. [*New section adopted November 5, 1974.*]

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

[*Felony Defendant Before Magistrate—Prosecutions*]

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

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

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

[*Felony—Prosecution by Indictment*]

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

SEC. 14½. [*Repealed November 5, 1974.*]

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

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

SEC. 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.

Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law. [*New section adopted November 5, 1974.*]

[*Trial by Jury*]

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

[*Number of Jurors in Civil Trials*]

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

[*Number of Jurors in Criminal Trials*]

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

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

[*Unusual Punishment—Excessive Fines*]

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

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

[*Treason*]

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

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

[*Eminent Domain*]

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

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

[*Rights of Noncitizens*]

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

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

[*Separate Property of Husband and Wife*]

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

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

[*No Property Qualification for Electors*]

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

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

[*Grand Juries*]

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

[*Constitutional Rights—Rights Reserved*]

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

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this State in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people. [*As amended June 5, 1990. Initiative measure.*]

[*Right to Fish*]

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

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

[*Constitution Mandatory and Prohibitory*]

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

SEC. 26a. [*Repealed November 8, 1949.*]

[*Death Penalty*]

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

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

[*"The Victims' Bill of Rights"*]

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

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

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

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

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

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

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

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

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

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail. However, no person charged with the commission of any serious felony shall be released on his or her own recognizance.

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney shall be given notice and reasonable opportunity to be heard on the matter.

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

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

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

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

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

[*Criminal Cases—Jointure-Hearsay Evidence—Discovery*]

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

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

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

[*Prohibition Against Discrimination or Preferential Treatment*]

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

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

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

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

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

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

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section. [*New section adopted November 5, 1996. Initiative measure.*]

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

ARTICLE II*

VOTING, INITIATIVE AND REFERENDUM, AND RECALL

[*Heading as amended June 8, 1976.*]

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

[*Purpose of Government*]

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

SEC. 1½. [*Repealed November 7, 1972.*]

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

[*Right to Vote*]

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

* New Article II adopted November 7, 1972.

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

[*Right to Have Vote Counted*]

SEC. 2.5. A voter who casts a vote in an election in accordance with the laws of this State shall have that vote counted. [*New Section adopted November 5, 2002.*]

SEC. 2¾. [*Repealed November 7, 1972.*]

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

[*Residence—Registration—Free Elections*]

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

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

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

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

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

[*Primary Elections for Partisan Offices—Open Presidential Primary—Election Rights of Political Parties*]

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

(b) A political party that participated in a primary election for a partisan office has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates. [*As amended November 2, 2004.*]

[*Nonpartisan Offices*]

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

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

[*Voting—Secret*]

SEC. 7. Voting shall be secret. [*Former Section 6, as renumbered June 8, 1976.*]

[*Initiative*]

SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

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

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

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

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

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

[*Referendum*]

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

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

copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

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

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

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

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

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

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

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

[*Initiative and Referendum—Cities or Counties*]

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

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

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

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

SEC. 12. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual

to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect. [*Former Section 26 of Article IV, as renumbered June 8, 1976.*]

[*Recall Defined*]

SEC. 13. Recall is the power of the electors to remove an elective officer. [*New section adopted June 8, 1976.*]

[*Recall Petitions*]

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

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

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

[*Recall Elections*]

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

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

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

[*Legislature to Provide for Petitions, Etc.*]

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

[*Recall of Governor or Secretary of State*]

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

[*Reimbursement of Recall Election Expenses*]

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

[*Recall of Local Officers*]

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

[*Terms of Elective Offices*]

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

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

ARTICLE III*

STATE OF CALIFORNIA

[*United States Constitution Supreme Law*]

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

[*Boundaries of the State—Sacramento Seat of Government*]

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

[*Separation of Powers*]

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

* New Article III adopted November 7, 1972.

[*Administrative Agencies: Declaration Statute Unenforceable or Unconstitutional Prohibited*]

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

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

(b) To declare a statute unconstitutional;

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

[*Salaries of Elected State Officers—Salaries of Judges*]

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

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

[*Suits Against State*]

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

[*Official State Language*]

SEC. 6. (a) Purpose.

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

(b) English as the Official Language of California.

English is the official language of the State of California.

(c) Enforcement.

The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps

necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

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

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

[*Retirement Benefits for Elected Constitutional Officers*]

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

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

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

(d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in sub-

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

[*California Citizens Compensation Commission*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*l*) ''State officer,'' as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner,

Secretary of State, Superintendent of Public Instruction, Treasurer, member of the State Board of Equalization, and Member of the Legislature. [*New section adopted June 5, 1990.*]

[*Sale of Surplus State Property*]

SEC. 9. The proceeds from the sale of surplus state property occurring on or after the effective date of this section, and any proceeds from the previous sale of surplus state property that have not been expended or encumbered as of that date, shall be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election. Once the principal and interest on those bonds are fully paid, the proceeds from the sale of surplus state property shall be deposited into the Special Fund for Economic Uncertainties, or any successor fund. For purposes of this section, surplus state property does not include property purchased with revenues described in Article XIX or any other special fund moneys. [*New section adopted November 2, 2004.*]

ARTICLE IV

LEGISLATIVE

[*Heading as amended November 8, 1966.*]

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

[*Legislative Power*]

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

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

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

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

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

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

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

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

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served. [*New section adopted November 6, 1990. Initiative measure.*]

[*Senate and Assembly—Membership—Elections—Number of Terms—Qualifications—Vacancies*]

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. No Senator may serve more than 2 terms.

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

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

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

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

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

[*Legislative Sessions—Regular and Special Sessions*]

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

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled

it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session. [*As amended June 8, 1976.*]

[*Legislators—Conflict of Interest—Prohibited Compensation—Earned Income*]

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

[*Legislators—Travel and Living Expenses*]

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

[*Legislators—Retirement*]

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

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

[*Legislators—Retirement*]

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

[*Legislators—Qualifications—Expulsion*]

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

[*Legislators—Honoraria*]

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

[*Legislators—Gifts—Conflict of Interest*]

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

[*Legislators—Prohibited Compensation or Activity*]

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to

appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*Legislators—Lobbying*]

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

[*Legislators—Conflict of Interest*]

(f) The Legislature shall enact new laws, and strengthen the enforcement of existing laws, prohibiting Members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities. However, the people reserve to themselves the power to implement this requirement pursuant to Article II. [*As amended June 5, 1990. Subdivision (b) operative December 3, 1990.*]

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

[*Senatorial and Assembly Districts*]

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

[*House Rules—Officers—Quorum*]

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

[*Journals*]

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

[*Public Proceedings—Closed Sessions*]

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

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

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

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

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

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

[*Recess*]

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

[*Legislature—Total Aggregate Expenditures*]

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

[*Bills and Statutes—30-day Waiting Period*]

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

[*Bills and Statutes—3 Readings*]

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

[*Bills and Statutes—Effective Date*]

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

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum

petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

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

[*Bills and Statutes—Urgency Statutes*]

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest. [*As amended June 5, 1990.*]

[*Ballot Measures—Application*]

SEC. 8.5. An act amending an initiative statute, an act providing for the issuance of bonds, or a constitutional amendment proposed by the Legislature and submitted to the voters for approval may not do either of the following:

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

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

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

[*Statutes—Title—Section*]

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

[*Governor's Veto—Bill Introduction in Biennial Session—Fiscal Emergencies*]

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The

Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

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

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

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

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

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

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

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

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

(f) (1) If, following the enactment of the budget bill for the 2004–05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect. [*As amended March 2, 2004.*]

[*Committees*]

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

[*Governor's Budget—Budget Bill—Other Appropriations*]

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

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

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

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature. [*As amended March 2, 2004.*]

[*Legislators—Ineligible for Certain Offices*]

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

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

[*Members—Not Subject to Civil Process*]

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

[*Influencing Action or Vote of a Member—Felony*]

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

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

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

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

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

[*Grant of Extra Compensation or Allowance Prohibited*]

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

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

[*Impeachment*]

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

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

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

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

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

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

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

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

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

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

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

[*Fish and Game—Districts and Commission*]

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

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

[*War- or Enemy-Caused Disaster*]

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

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

* Ballot Proposition 1A (SCA 11) March 7, 2000.
† Ballot Proposition 17 (SCA 4) March 7, 2000.

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

(c) Convening the Legislature.

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

(e) Selecting a temporary seat of state or county government. [*As amended November 5, 1974.*]

[*Accountability—Session Goals and Objectives*]

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

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

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

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

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

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

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

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

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

SEC. 25⅝. [*Renumbered Section 22 of Article XIII and amended November 8, 1966.*]

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

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

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

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

[*State Capitol Maintenance—Appropriations*]

SEC. 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either (1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the

State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or (2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators' chairs and desks in the Senate and Assembly Chambers.

(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.

(c) This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture. [*New Section adopted June 3, 1980.*]

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

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

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

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

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

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

SEC. 31c. [*As adopted November 3, 1936, renumbered Section 28 of Article XIII and amended November 8, 1966.*]

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V*

EXECUTIVE

[*Executive Power Vested in Governor*]

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

[*Election—Eligibility—Number of Terms*]

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

[*Report to Legislature—Recommendations*]

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

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

[*Information From Executive Officers, Etc.*]

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

[*Filling Vacancies—Confirmation by Legislature*]

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

(b) Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a

* New Article V adopted November 8, 1966.

majority of the membership of the Assembly and who shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes. [*As amended November 2, 1976.*]

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

[*Executive Assignment and Agency Reorganization*]

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

[*Commander of Militia*]

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

[*Reprieves—Pardons—Commutations*]

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

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

[*Lieutenant Governor—Qualifications—Casting Vote*]

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

[*Succession*]

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

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

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

The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.

Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute. [*As amended November 5, 1974.*]

[*Other State Officers—Election—Number of Terms*]

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

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

[*Attorney General—Chief Law Officer*]

SEC. 13. Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any

county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office. [*As amended November 5, 1974.*]

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

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

[*State Officers—Honoraria*]

(b) No state officer may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[*State Officers—Gifts—Conflict of Interest*]

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

[*State Officers—Prohibited Compensation or Activity*]

(d) No state officer may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a state officer

knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the state officer may not, for a period of one year following the acceptance of the compensation, make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the state agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a state officer may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the state officer is a member if the state officer does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*State Officers—Lobbying*]

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

[*State Officer—Definition*]

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

SEC. 15. [*Repealed November 8, 1966.*]

SEC. 16. [*Repealed November 8, 1966.*]

SEC. 17. [*Repealed November 8, 1966.*]

SEC. 18. [*Repealed November 8, 1966.*]

SEC. 20. [*Repealed November 8, 1966.*]

SEC. 21. [*Repealed November 8, 1966.*]

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

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

ARTICLE VI*

JUDICIAL

[*Judicial Power Vested in Courts*]

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

SEC. 1a. [*Repealed November 8, 1966.*]

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

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

[*Supreme Court—Composition*]

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

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

[*Judicial Districts—Courts of Appeal*]

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

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

[*Superior Courts*]

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

* New Article VI adopted November 8, 1966.

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

SEC. 4a. [*Repealed November 8, 1966.*]

SEC. 4b. [*Repealed November 8, 1966.*]

SEC. 4c. [*Repealed November 8, 1966.*]

SEC. 4d. [*Repealed November 8, 1966.*]

SEC. 4e. [*Repealed November 8, 1966.*]

SEC. 4½. [*Repealed November 8, 1966.*]

SEC. 4¾. [*Repealed November 8, 1966.*]

SEC. 5. [*Repealed November 5, 2002.*]

SEC. 5.5. [*Repealed June 8, 1976.*]

[*Judicial Council—Membership and Powers*]

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

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

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

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

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

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

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

[*Commission on Judicial Appointments—Membership*]

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

[*Commission on Judicial Performance—Membership*]

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

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

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

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

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

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

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

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

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

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

[*State Bar*]

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

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

[*Jurisdiction—Original*]

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

Superior courts have original jurisdiction in all other causes.

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

SEC. 10a. [*Repealed November 8, 1966.*]

SEC. 10b. [*Repealed November 8, 1966.*]

[*Jurisdiction—Appellate*]

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

troversy, the Legislature may change the appellate jurisdiction of the courts of appeal by changing the jurisdictional amount in controversy.

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

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

[*Transfer of Causes—Jurisdiction—Review of Decisions*]

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

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

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

(d) This section shall not apply to an appeal involving a judgment of death. [*As amended November 6, 1984. Operative May 6, 1985.*]

[*Judgment—When Set Aside*]

SEC. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. [*New section adopted November 8, 1966.*]

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

[*Supreme Court and Appellate Court—Published Opinions*]

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

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated. [*New section adopted November 8, 1966.*]

[*Judges—Eligibility*]

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

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

[*Judges—Elections—Terms—Vacancies*]

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

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

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

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

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

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

[*Judges—Restrictions, Other Employment, and Benefits*]

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

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

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

[*Judges—Discipline*]

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

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

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

(d) Except as provided in subdivision (f), the Commission on Judicial Performance may (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, or (2) censure a judge or former judge or remove a judge for

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

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

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

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

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

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

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

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

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

(k) The commission may make explanatory statements.

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

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

[*Subordinate Judicial Officers—Discipline*]

SEC. 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers, according to the same standards, and subject to review upon petition to the Supreme Court, as specified in Section 18.

No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

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

[*Disciplined Judge Under Consideration for Judicial Appointment*]

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

(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to

a full understanding of the commission's action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.

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

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

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

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

[*Judges—Compensation*]

SEC. 19. The Legislature shall prescribe compensation for judges of courts of record.

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

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

[*Judges—Retirement—Disability*]

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

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

[*Temporary Judges*]

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

[*Appointment of Officers—Subordinate Judicial Duties*]

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

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

[*Superior and Municipal Court Consolidation*]

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

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

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(2) Preexisting court locations are retained as superior court locations.

(3) Preexisting court records become records of the superior court.

(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.

(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

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

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

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

ARTICLE VII*

PUBLIC OFFICERS AND EMPLOYEES

[*Civil Service*]

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

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

[*Personnel Board—Membership and Compensation*]

SEC. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members as presiding officer.

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

[*Personnel Board—Duties*]

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

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

* New Article VII adopted June 8, 1976.

[*Exempt Positions*]

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

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

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

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

(d) Members of boards and commissions.

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

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

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

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

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

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

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

(*l*) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees. [*New section adopted June 8, 1976.*]

[*Temporary Appointments*]

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

[*Veterans' Preferences—Special Rules*]

SEC. 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the State undertakes work previously performed by a county, city, public district of this State or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute. [*New section adopted June 8, 1976.*]

[*Dual Office Holding*]

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

[*Disqualification From Holding Office or Serving on Jury—Free Suffrage*]

SEC. 8. (a) Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.

(b) Laws shall be made to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice. [*New section adopted June 8, 1976.*]

[*Persons or Organizations Advocating Overthrow of Government*]

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

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

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

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

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

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

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

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

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

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

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

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

[*Legislators' and Judges' Retirement Systems*]

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

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

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

(d) If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application. [*As amended November 6, 1990. Initiative measure.*]

ARTICLE VIII. [*Repealed November 8, 1966.*]

ARTICLE IX

EDUCATION

[*Legislative Policy*]

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

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

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gu-

bernatorial election. No Superintendent of Public Instruction may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

[*Deputy and Associate Superintendents of Public Instruction*]

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

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

[*County Superintendents of Schools*]

SEC. 3. A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting. [*As amended November 2, 1976.*]

[*County Superintendents of Schools—Qualifications and Salaries*]

SEC. 3.1. (a) Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools, and for these purposes shall classify the several counties in the State.

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

[*Joint County Board of Education—Joint County Superintendent of Schools*]

SEC. 3.2. Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools

shall be governed by the general statutes and shall not be governed by the provisions of any county charter. [*New section adopted November 2, 1976.*]

[*County Boards of Education—Qualifications and Terms of Office*]

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

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

[*Common School System*]

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

[*Public Schools—Salaries*]

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.

[*Public School System*]

The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

[*Support of Public School System—State Aid*]

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

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts

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

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

[*School Districts—Bonds*]

SEC. 6½. Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; *provided,* that all such bonds shall be issued subject to the limitations prescribed in section eighteen† of article eleven hereof. [*New section adopted November 7, 1922.*]

[*Boards of Education*]

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

[*Free Textbooks*]

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

† Former Section 18 of Article XI added to Article XIII as Section 40, June 2, 1970 and repealed November 5, 1974.

[*Sectarian Schools—Public Money—Doctrines*]

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

[*University of California*]

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

(b) The terms of the members appointed prior to November 5, 1974, shall be 16 years; the terms of two appointive members to expire as heretofore on March 1st of every even-numbered calendar year, and two members shall be appointed for terms commencing on March 1, 1976, and on March 1 of each year thereafter; provided that no such appointments shall be made for terms to commence on March 1, 1979, or on March 1 of each fourth year thereafter, to the end that no appointment to the regents for a newly commencing term shall be made during the first year of any gubernatorial term of office. The terms of the members appointed for terms commencing on and after March 1, 1976, shall be 12 years. During the period of transition until the time when the appointive membership is comprised exclusively of persons serving for terms of 12 years, the total number of appointive members may exceed the numbers specified in the preceeding paragraph.

In case of any vacancy, the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor and approved by the Senate, a majority of the membership concurring, shall be for the balance of the term for which such vacancy exists.

(c) The members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members with all rights of participation: a member of the faculty at a campus of the university or of another institution of higher education; a person enrolled as a student at a campus of the university for each regular academic term during his service as a member of the board. Any person so appointed shall serve for not less than one year commencing on July 1.

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

(e) In the selection of the Regents, the Governor shall consult an advisory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members appointed by the Rules Committee of the Senate, two public members appointed by the Governor, the chairman of the regents of the university, an alumnus of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the faculty of the university chosen by the academic senate of the university. Public members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President Pro Tempore of the Senate, and the Governor shall be appointed to serve for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sec-

tarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

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

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

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

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

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

[*School District Incorporation and Organization—Governing Board Powers*]

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

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

SEC. 15. [*Repealed November 5, 1974.*]

[*Boards of Education—City Charter Provisions*]

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

[*Charter Amendments—Approval by Voters*]

(b) Notwithstanding Section 3 of Article XI, when the boundaries of a school district or community college district extend beyond the limits of a city whose charter provides for any or all of the foregoing with respect to the members of its board of education, no charter amendment effecting a change in the manner in which, the times at which, or the terms for which the members of the board of education shall be elected or appointed, for their qualifications, compensation, or removal, or for the number which shall constitute such board, shall be adopted unless it is submitted to and approved by a majority of all the qualified electors of the school district or community college district voting on the question. Any such amendment,

and any portion of a proposed charter or a revised charter which would establish or change any of the foregoing provisions respecting a board of education, shall be submitted to the electors of the school district or community college district as one or more separate questions. The failure of any such separate question to be approved shall have the result of continuing in effect the applicable existing law with respect to that board of education. [*As amended June 6, 1978.*]

ARTICLE X*

WATER

[*State's Right of Eminent Domain*]

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

[*Conservation and Beneficial Use of Water—Riparian Rights*]

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. [*New section adopted June 8, 1976.*]

* New Article X adopted June 8, 1976.

[*Tidelands*]

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

[*Access to Navigable Waters*]

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

[*State Control of Water Use*]

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

[*Compensation for Water Use*]

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

[*Acquisition of Real Property—Conformance to California Water Laws*]

SEC. 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to

the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired. [*New section adopted June 8, 1976.*]

ARTICLE X A*

WATER RESOURCES DEVELOPMENT

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

[*Water Rights, Water Quality, and Fish and Wildlife Resources Guaranteed and Protected*]

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

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

SEC. 2. No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta; (2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

* New Article X A adopted November 4, 1980.

† Chapter 632, Statutes of 1980.

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

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

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

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

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

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

[*Actions and Proceedings*]

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

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

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

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

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

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

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

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

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

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section,

† Chapter 632, Statutes of 1980.

† Chapter 632, Statutes of 1980.

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

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

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

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

[*State Agencies' Exercise of Authorized Powers*]

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

[*Force or Effect of Article*]

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

† Chapter 632, Statutes of 1980.

ARTICLE X B*

MARINE RESOURCES PROTECTION ACT OF 1990

[*Title*]

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

[*Definitions*]

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

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

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

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

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

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

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

[*Gill and Trammel Nets—Usage*]

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

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

[*Gill and Trammel Nets—Usage*]

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

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* New Article X B adopted November 6, 1990. Initiative measure.

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

[*Gill and Trammel Nets—Usage*]

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

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

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net. [*New section adopted November 6, 1990. Initiative measure.*]

[*Permit Fees*]

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

Calendar Year	Fee
1991	$250
1992	500
1993	1,000

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

[*Permitholder's Compensation for Discontinuing Fishing with Gill and Trammel Nets*]

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision

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

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

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

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

[*Marine Resources Protection Account—Fees—Interest*]

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

ticle shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.

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

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

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

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

(f) This section shall become inoperative on January 1, 1995. [*New section adopted November 6, 1990. Inoperative January 1, 1995. Initiative measure.*]

[*Marine Resources Protection Account—Grants*]

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

[*Report to Legislature*]

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

[*Violations*]

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

[*Commercial Fishing Daily Landings Monitoring and Evaluating Program*]

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

[*Penalties for Violations—Probation—Fine*]

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

(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section. [*New section adopted November 6, 1990. Initiative measure.*]

[*New Ecological Reserves*]

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

[*Article not Preempting or Superseding Other Protective Closures*]

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

[*Severability*]

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

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

ARTICLE XI*

LOCAL GOVERNMENT

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

SECTION 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

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

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* New Article XI adopted June 2, 1970.

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

[*Cities—Formation, Powers*]

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

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

[*County or City—Charters*]

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

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

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

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

[*County Charters—Provisions*]

SEC. 4. County charters shall provide for:

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

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

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

(d) The performance of functions required by statute.

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

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

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

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

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

[*City Charters—Provisions*]

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

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

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

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

[*Charter City and County*]

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

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

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

[*Local Ordinances and Regulations*]

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

SEC. 7½. [*Repealed June 2, 1970.*]

SEC. 7½b. [*Repealed June 2, 1970.*]

[*Ballot Measures—Application*]

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

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

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

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

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

[*Counties—Performance of Municipal Functions*]

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

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

SEC. 8½. [*Repealed June 2, 1970.*]

[*Local Utilities*]

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

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

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

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

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

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

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

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this State or in any savings and loan association in this State or any credit union in this State or in any federally insured industrial loan company in this State and for payment of interest, principal, and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this State. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this State, acting as trustees or fiscal agents. [*As amended November 8, 1988.*]

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

[*Claims Against Counties or Cities, Etc.*]

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

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

[*Distribution of Powers—Construction of Article*]

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

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

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

[*Local Government—Taxation*]

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

[*Vehicle License Fee Allocations*]

SEC. 15. (a) From the revenues derived from taxes imposed pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code), or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, those revenues derived from that portion of the vehicle license fee rate that does not exceed 0.65 percent of the market value of the vehicle shall be allocated as follows:

(1) An amount shall be specified in the Vehicle License Fee Law, or the successor to that law, for deposit in the State Treasury to the credit of the Local Revenue Fund established in Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code, or its successor, if any, for allocation to cities, counties, and cities and counties as otherwise provided by law.

(2) The balance shall be allocated to cities, counties, and cities and counties as otherwise provided by law.

(b) If a statute enacted by the Legislature reduces the annual vehicle license fee below 0.65 percent of the market value of a vehicle, the Legislature shall, for each fiscal year for which the reduced fee applies, provide by statue for the allocation of an additional amount of money that is equal to the decrease, resulting from the fee reduction, in the total amount of revenues that are otherwise required to be deposited and allocated under subdivision (a) for that same fiscal year. That amount shall be allocated to cities, counties, and cities and counties in the same pro rata amounts and for the same purposes as are revenues subject to subdivision (a). [*As amended November 2, 2004.*]

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

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

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

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

SEC. 18¼. [*Repealed June 2, 1970.*]

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

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

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

ARTICLE XII*

PUBLIC UTILITIES

[*Public Utilities Commission—Composition*]

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

[*Public Utilities Commission—Powers and Duties*]

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

* New Article XII adopted November 5, 1974.

[*Public Utilities—Legislative Control*]

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

[*Rates—Discrimination in Transportation Charges, Etc.*]

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

[*Public Utilities Commission—Compensation in Eminent Domain Proceedings*]

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

[*Public Utilities Commission—Powers and Duties*]

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

[*Free Passes, Public Officials—Conflict of Interest, Public Utilities Commissioner*]

SEC. 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. [*New section adopted November 5, 1974.*]

[*Public Utilities—Regulation*]

SEC. 8. A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. This section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of any city to grant franchises for public utilities or other businesses on terms, conditions, and in the manner prescribed by law. [*New section adopted November 5, 1974.*]

[*Restatement*]

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

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

SEC. 17. [*Repealed November 5, 1974.*]

SEC. 18. [*Repealed November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974.*]

SEC. 23a. [*Repealed November 5, 1974.*]

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

ARTICLE XIII*

TAXATION

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

[*Uniformity Clause*]

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

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

* New Article XIII adopted November 5, 1974.

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

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

SEC. 1a. [*Repealed November 5, 1974.*]

SEC. 1b. [*Repealed November 5, 1974.*]

SEC. 1c. [*Repealed November 5, 1974.*]

SEC. 1d. [*Repealed November 5, 1974.*]

SEC. 1¼. [*Repealed November 5, 1974.*]

SEC. 1¼a. [*Repealed November 5, 1974.*]

SEC. 1¼b. [*Repealed November 5, 1974.*]

SEC. 1½. [*Repealed November 5, 1974.*]

SEC. 1½a. [*Repealed November 5, 1974.*]

SEC. 1.60. [*Repealed November 5, 1974.*]

SEC. 1.61. [*Repealed November 5, 1974.*]

SEC. 1.62. [*Repealed November 5, 1974.*]

SEC. 1.63. [*Repealed November 5, 1974.*]

SEC. 1.64. [*Repealed November 5, 1974.*]

SEC. 1.65. [*Repealed November 5, 1974.*]

SEC. 1.66. [*Repealed November 5, 1974.*]

SEC. 1.67. [*Repealed November 5, 1974.*]

SEC. 1.68. [*Repealed November 5, 1974.*]

SEC. 1.69. [*Repealed November 5, 1974.*]

SEC. 1¾. [*Repealed November 5, 1974.*]

SEC. 2. [*Repealed November 5, 1974. See Section 2, below.*]

[*Personal Property Classification*]

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

SEC. 2.5. [*Repealed November 5, 1974.*]

SEC. 2.6. [*Repealed November 5, 1974.*]

SEC. 2.8. [*Repealed November 5, 1974.*]

[*Property Tax Exemptions*]

SEC. 3. The following are exempt from property taxation:

[*State Owned Property*]

(a) Property owned by the State.

[*Local Government Property*]

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

[*Government Bonds*]

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

[*Public Property*]

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

[*Educational Property*]

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

[*Church Property*]

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

[*Cemetery Property*]

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

[*Growing Crops*]

(h) Growing crops.

[*Fruit and Nut Trees*]

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

[*Timber Exemption*]

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

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

[*Homeowners' Exemption*]

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

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

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

[*Vessels*]

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

[*Household Furnishings—Personal Effects*]

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business.

[*Debt Secured by Land*]

(n) Any debt secured by land.

[*Veterans' Exemptions*]

(o) Property in the amount of $1,000 of a claimant who—

(1) is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and—

(2) served either

(i) in time of war, or

(ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or

(iii) in time of peace and because of a service-connected disability was released from active duty; and—

(3) resides in the State on the current lien date.

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

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

[*Veterans' Exemptions*]

(p) Property in the amount of $1,000 of a claimant who—

(1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) does not own property in excess of $10,000, and

(3) is a resident of the State on the current lien date.

[*Veterans' Exemptions*]

(q) Property in the amount of $1,000 of a claimant who—

(1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) receives a pension because of the veteran's service, and

(3) is a resident of the State on the current lien date.

Either parent of a deceased veteran may claim this exemption.

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

[*Veterans' Exemptions*]

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by

the previous section 1¼ of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment. [*As amended November 8, 1988.*]

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

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

[*Property Tax Exemption*]

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

[*Home of Veteran or Surviving Spouse*]

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

[*Religious, Hospital and Charitable Property*]

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

[*Specific College Exemptions*]

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

[*Church Parking Lots*]

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

[*Exemption of Buildings Under Construction*]

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

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

[*Exemption Waivers*]

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

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

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

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

[*Open Space Land and Historical Property—Exemption*]

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

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

[*Postponement of Property Taxes*]

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

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of rev-

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

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

[*Valuation of Certain Homes*]

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

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

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

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

[*Golf Course Values*]

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

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

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

[*Taxation of Local Government Real Property*]

SEC. 11. (a) Lands owned by a local government that are outside its boundaries, including rights to use or divert water from surface or underground sources and any other interests in lands, are taxable if (1) they are located in Inyo or Mono County and (a) they were assessed for taxation to the local government in Inyo County as of the 1966 lien date, or in Mono County as of the 1967 lien date, whether or not the assessment was valid when made, or (b) they were acquired by the local government subsequent to that lien date and were assessed to a prior owner as of that lien date and each lien date thereafter, or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries

are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired.

(b) Taxable land belonging to a local government and located in Inyo County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1966 lien date and in an amount derived by multiplying its 1966 assessed value by the ratio of the statewide per capita assessed value of land as of the last lien date prior to the current lien date to $766, using civilian population only. Taxable land belonging to a local government and located in Mono County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1967 lien date and in an amount determined by the preceding formula except that the 1967 lien date, the 1967 assessed value, and the figure $856 shall be used in the formula. Taxable land belonging to a local government and located outside of Inyo and Mono counties shall be assessed at the place where located and in an amount that does not exceed the lower of (1) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and (2) a figure derived in the manner specified in this Section for land located in Mono County.

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

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

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

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

full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.

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

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

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

[*Unsecured Property Tax Rate*]

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

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

SEC. 12¾. [*Repealed November 5, 1974.*]

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

[*Separate Land and Improvements Assessment*]

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

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

[*Tax Situs*]

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

SEC. 14⅘. [*Repealed November 5, 1974.*]

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

[*Disaster Relief*]

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

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

[*County Board of Equalization—Assessment Appeals Board*]

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

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

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

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

[*Board of Equalization*]

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

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

[*Intercounty Equalization*]

SEC. 18. The Board shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured lo-

cal assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after such adjustments, shall be corrected for purposes of distributing this tax by equalizing the assessment levels of locally and state-assessed properties and varying the rate of the state tax inversely with the counties' respective assessment levels. [*New section adopted November 5, 1974.*]

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

[*State Assessment*]

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

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

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

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

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

[*Maximum Tax Rates—Bonding Limits*]

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

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

[*School District Tax*]

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

SEC. 21.5. [*Repealed November 5, 1974.*]

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

[*State Property Tax Limitations*]

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

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

[*State Boundary Change*]

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

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

[*State Taxes for Local Purposes*]

SEC. 24. The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

[*State Funds for Local Purposes*]

Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

[*Subventions*]

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

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

[*Homeowners' Exemption, Reimbursement of Local Government*]

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

[*Ad Valorem Property Tax Revenue Allocations*]

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which as valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year un-

der the statutes in effect on November 3, 2004. For purposes of this subparagraph, ''percentage'' does not include any property tax revenues referenced in paragraph (2).

(B) Beginning with the 2008–09 fiscal year and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency 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, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

(C) (i) Subparagraph (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 for which subparagraph (A) is suspended.

(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.

(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).

(iv) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2) (A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed

by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

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

(1) ''Ad valorem property tax revenues'' means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) ''Local agency'' has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004. [*New section adopted November 2, 2004.*]

[*Income Tax*]

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

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

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

(1) The income is not unrelated business income as defined by the Legislature.

(2) The income is used exclusively for educational purposes.

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

[*Bank and Corporation Taxes*]

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

[*Taxation of Insurance Companies*]

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

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

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

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

(1) Interest and dividends.

(2) Rents from real property.

(3) Profits from the sale or other disposition of investments.

(4) Income from investments.

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

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

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

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

(1) Taxes upon their real estate.

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

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or

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

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

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

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

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

(4) The tax on ocean marine insurance.

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

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

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

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

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

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

[*Local Government Tax Sharing*]

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

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

[*Tax Liens—Presumption of Payment of Taxes*]

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

[*Power to Tax*]

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

[*Proceedings Relating to Collection*]

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

[*Legislature to Enact Laws*]

SEC. 33. The Legislature shall pass all laws necessary to carry out the provisions of this article. [*New section adopted November 5, 1974.*]

[*Food Products—Taxation*]

SEC. 34. Neither the State of California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale of, or the storage, use or other consumption in this State of food products for human consumption except as provided by statute as of the effective date of this section. [*New section adopted November 3, 1992. Operative January 1, 1993. Initiative measure.*]

[*Local Public Safety Services*]

SEC. 35. (a) The people of the State of California find and declare all of the following:

(1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base.

(2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.

(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.

(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:

(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any

retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of ½ percent of the sales price of the property.

(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).

(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:

(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.

(B) A majority of the county's voters voting thereon approve the addition of this section.

(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.

(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or State General Fund proceeds of taxes within the meaning of Article XVI.

(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II. [*New section adopted November 2, 1993.*]

SEC. 37. [*Repealed November 5, 1974.*]

SEC. 37.5. [*Repealed November 5, 1974.*]

SEC. 38. [*Repealed November 5, 1974.*]

SEC. 39. [*Repealed November 5, 1974.*]

SEC. 40. [*Repealed November 5, 1974.*]

SEC. 41. [*Repealed November 5, 1974.*]

SEC. 42. [*Repealed November 5, 1974.*]

SEC. 44. [*Repealed November 5, 1974.*]

ARTICLE XIII A*

TAX LIMITATION

[*Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues*]

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such

* New Article XIII A adopted June 6, 1978. Initiative measure.

property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

[*Exceptions to Limitation*]

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b). [*As amended November 7, 2000. Initiative measure.*]

[*Valuation of Real Property—Appraised Value After 1975 Assessment—Replacement Dwelling*]

SEC. 2. (a) The ''full cash value'' means the county assessor's valuation of real property as shown on the 1975–76 tax bill under ''full cash value'' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, ''newly constructed'' does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term ''newly constructed'' does not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, ''any person over the age of 55 years'' includes a married couple one member of which is over the age of 55 years. For purposes of this section, ''replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, ''local affected agency'' means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after

the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

[*Full Cash Value Reflecting Inflationary Rate*]

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.

[*''Newly Constructed''*]

(c) For purposes of subdivision (a), the Legislature may provide that the term ''newly constructed'' does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

[*"Change in Ownership"*]

(d) For purposes of this section, the term "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.

[*Disasters—Replacement Property*]

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, "affected local agency" means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed

by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

[*Real Property Transfers between Spouses*]

(g) For purposes of subdivision (a), the terms ''purchased'' and ''change in ownership'' do not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse that take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

[*Real Property Transfers between Family Members*]

(h) (1) For purposes of subdivision (a), the terms ''purchased'' and ''change in ownership'' do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars ($1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding

this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar ($1,000,000) full cash value limit specified in paragraph (1).

[*Contaminated Property*]

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term ''new construction'' does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure

on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, ''qualified contaminated property'' means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is ''uninhabitable'' if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is ''unusable'' if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The pre-

sumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

[*Effectiveness of Amendments*]

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment. [*As amended November 3, 1998.*]

[*Changes in State Taxes—Vote Requirement*]

SEC. 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. [*New section adopted June 6, 1978. Initiative measure.*]

[*Imposition of Special Taxes*]

SEC. 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. [*New section adopted June 6, 1978. Initiative measure.*]

[*Effective Date of Article*]

SEC. 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. [*New section adopted June 6, 1978. Initiative measure.*]

[*Severability*]

SEC. 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. [*New section adopted June 6, 1978. Initiative measure.*]

[*California Children and Families First Act of 1998*]

SEC. 7. Section 3 of this article does not apply to the California Children and Families First Act of 1998. [*New section adopted November 3, 1998. Initiative measure.*]

ARTICLE XIII B*

GOVERNMENT SPENDING LIMITATION

[*Total Annual Appropriations*]

SECTION 1. The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit Annual Calculation—Review*]

SEC. 1.5. The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

[*Revenues in Excess of Limitation*]

SEC. 2. (a)(1) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI.

(2) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

(b) All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years. [*As amended June 5, 1990. Operative July 1, 1990.*]

* New Article XIII B adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.

[*Appropriations Limit—Adjustments*]

SEC. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred, in whole or in part, whether by annexation, incorporation or otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) (1) In the event an emergency is declared by the legislative body of an entity of government, the appropriations limit of the affected entity of government may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

(2) In the event an emergency is declared by the Governor, appropriations approved by a two-thirds vote of the legislative body of an affected entity of government to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation. As used in this paragraph, ''emergency'' means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons and property within the State, or parts thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit—Establishment or Change*]

SEC. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Contingency, Emergency, Unemployment, Etc., Funds—Contributions—Withdrawals—Transfers*]

SEC. 5. Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Prudent State Reserve*]

SEC. 5.5. *Prudent State Reserve.* The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article. [*New section adopted November 8, 1988. Initiative measure.*]

[*Mandates of New Programs or Higher Levels of Service*]

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility. [*As amended November 2, 2004.*]

[*Bonded Indebtedness*]

SEC. 7. Nothing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Definitions*]

SEC. 8. As used in this article and except as otherwise expressly provided herein:

(a) ''Appropriations subject to limitation'' of the State means any authorization to expend during a fiscal year the proceeds of taxes levied by or for the State, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6) and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance, and disability insurance funds.

(b) ''Appropriations subject to limitation'' of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) ''Proceeds of taxes'' shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation,

product, or service, and (2) the investment of tax revenues. With respect to any local government, ''proceeds of taxes'' shall include subventions received from the State, other than pursuant to Section 6, and, with respect to the State, proceeds of taxes shall exclude such subventions.

(d) ''Local government'' means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State.

(e) (1) ''Change in the cost of living'' for the State, a school district, or a community college district means the percentage change in California per capita personal income from the preceding year.

(2) ''Change in the cost of living'' for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.

(f) ''Change in population'' of any entity of government, other than the State, a school district, or a community college district, shall be determined by a method prescribed by the Legislature.

''Change in population'' of a school district or a community college district shall be the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year, as determined by a method prescribed by the Legislature.

''Change in population'' of the State shall be determined by adding (1) the percentage change in the State's population multiplied by the percentage of the State's budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of the State's budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.

Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.

(g) ''Debt service'' means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness there-

after approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.

(h) The ''appropriations limit'' of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the ''appropriations limit'' of each entity of government for fiscal year 1978–79 is the total of the appropriations subject to limitation of the entity for that fiscal year. For fiscal year 1978–79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, ''appropriations subject to limitation'' do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the State, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 9. ''Appropriations subject to limitation'' for each entity of government do not include:

(a) Appropriations for debt service.

(b) Appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977–78 fiscal year levy an ad valorem tax on property in excess of 12½ cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

(d) Appropriations for all qualified capital outlay projects, as defined by the Legislature.

(e) Appropriations of revenue which are derived from any of the following:

(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents ($0.09) per gallon.

(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).

(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Effective Date of Article*]

SEC. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Appropriations Limit on or after July 1, 1990*]

SEC. 10.5. For fiscal years beginning on or after July 1, 1990, the appropriations limit of each entity of government shall be the appropriations limit for the 1986–87 fiscal year adjusted for the changes made from that fiscal year pursuant to this article, as amended by the measure adding this section, adjusted for the changes required by Section 3. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

[*Category Added or Removed from Appropriations Subject to Limitation—Severability*]

SEC. 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held invalid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 12. ''Appropriations subject to limitation'' of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. [*New section adopted November 8, 1988. Initiative measure.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 13. ''Appropriations subject to limitation'' of each entity of government shall not include appropriations of revenue from the California Children and Families First Trust Fund created by the California Children and Families First Act of 1998. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Children and Families First Trust Fund. The surtax created by the Cali-

fornia Children and Families First Act of 1998 shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI. [*New section adopted November 3, 1998. Initiative measure.*]

ARTICLE XIII C *

VOTER APPROVAL FOR LOCAL TAX LEVIES

SECTION 1. Definitions. As used in this article:

(a) ''General tax'' means any tax imposed for general governmental purposes.

(b) ''Local government'' means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) ''Special district'' means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) ''Special tax'' means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased

* New Article XIII C adopted November 5, 1996. Initiative measure.

if it is imposed at a rate not higher than the maximum rate so approved. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives. [*New section adopted November 5, 1996. Initiative measure.*]

ARTICLE XIII D*

ASSESSMENT AND PROPERTY-RELATED FEE REFORM

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIII C shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 2. Definitions. As used in this article:

(a) ''Agency'' means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) ''Assessment'' means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. ''Assessment'' includes, but is not limited to, ''special assessment,'' ''benefit assessment,'' ''maintenance assessment'' and ''special assessment tax.''

(c) ''Capital cost'' means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) ''District'' means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) ''Fee'' or ''charge'' means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon

* New Article XIII D adopted November 5, 1996. Initiative measure.

a person as an incident of property ownership, including a user fee or charge for a property-related service.

(f) ''Maintenance and operation expenses'' means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) ''Property ownership'' shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) ''Property-related service'' means a public service having a direct relationship to property ownership.

(i) ''Special benefit'' means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute ''special benefit.'' [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property-related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assess-

ment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall

not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e). [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 6. Property-Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property-related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section. [*New section adopted November 5, 1996. Initiative measure.*]

ARTICLE XIV. [*Repealed June 8, 1976. See Article XIV, below.*]

ARTICLE XIV*

LABOR RELATIONS

SECTION 1. [*Repealed June 8, 1976. See Section 1, below.*]

[*Minimum Wages and General Welfare of Employees*]

SECTION 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers. [*New section adopted June 8, 1976.*]

SEC. 2. [*Repealed June 8, 1976. See Section 2, below.*]

[*Eight-hour Workday*]

SEC. 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this section. [*New section adopted June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976. See Section 3, below.*]

[*Mechanics' Liens*]

SEC. 3. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens. [*New section adopted June 8, 1976.*]

SEC. 4. [*Repealed June 8, 1976. See Section 4, below.*]

[*Workers' Compensation*]

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate

* New Article XIV adopted June 8, 1976.

provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the state government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the State in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed. [*New section adopted June 8, 1976.*]

SEC. 5. [*Repealed November 6, 1990. See Section 5, below.*]

[*Inmate Labor*]

SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of inmates to work. [*New section adopted November 6, 1990. Initiative measure.*]

ARTICLE XV. [*Repealed June 8, 1976. See Article XV, below.*]

ARTICLE XV*

USURY

[*Rate of Interest*]

SECTION 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for per-

* New Article XV adopted June 8, 1976.

sonal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

[*Charges*]

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the interest authorized by this section upon any loan or forbearance of any money, goods or things in action.

[*Exemptions*]

However, none of the above restrictions shall apply to any obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the ''Building and Loan Association Act,'' approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled ''An act defining industrial loan companies, providing for their incorporation, powers and supervision,'' approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled ''An act defining credit unions, providing for their incorporation, powers, management and supervision,'' approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the ''Bank Act,'' approved March 1, 1909, as amended, or any

bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled ''Agricultural Credits Act of 1923,'' as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

[*Judgments Rendered in Court—Rate of Interest*]

The rate of interest upon a judgment rendered in any court of this State shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.

In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the State shall be 7 percent per annum.

[*Scope of Section*]

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*As amended November 6, 1979.*]

SEC. 2. [*Repealed June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976.*]

ARTICLE XVI

PUBLIC FINANCE

[*Heading as amended November 5, 1974.*]

[*State Indebtedness—Limitation—Two-thirds Vote to Submit Bond Law—Submission of Law to Electors*]

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars ($300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763† of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified. [*As amended June 2, 1970.*]

[*Budget Deficits*]

SEC. 1.3. (a) For the purposes of Section 1, a ''single object or work,'' for which the Legislature may create a debt or liability in excess of three hundred thousand dollars ($300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.

(b) As used in subdivision (a), ''accumulated state budget deficit'' means the aggregate of both of the following, as certified by the Director of Finance:

(1) The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).

(2) Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.

(c) Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other

† Chapter 740.

revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, ''year-end state budget deficit'' does not include an obligation within the accumulated state budget deficit as defined by subdivision (b). [*New section adopted March 2, 2004.*]

[*General Obligation Bond Proceeds Fund*]

SEC. 1.5. The Legislature may create and establish a ''General Obligation Bond Proceeds Fund'' in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the ''General Obligation Bond Proceeds Fund.'' Accounts shall be maintained in the ''General Obligation Bond Proceeds Fund'' of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the ''General Obligation Bond Proceeds Fund'' pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the ''General Obligation Bond Proceeds Fund'' which constitute the proceeds of the particular bond fund being re-established. [*New section adopted November 6, 1962.*]

SEC. 2. [*Repealed November 6, 1962. See Section 2, below.*]

[*Bond Issues—Submission by Constitutional Amendment Prohibited—Repeal of Certain Constitutional Provisions*]

SEC. 2. (a) No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors in the form of a bond act or statute.

(b) The provisions of this Constitution enumerated in subdivision (c) of this section are repealed and such provisions are continued as statutes

which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.

(c) The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 4½, 5, 6, 8, 8½, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21. [*New section adopted November 6, 1962.*]

[*Appropriations*]

SEC. 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

[*Federal Funds*]

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.

[*Institution for Support of Orphans or Aged Indigents*]

(2) The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.

[*Needy Blind*]

(3) The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual

needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.

[*Physically Handicapped Persons*]

(4) The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.

[*Management of Institutions*]

(5) The State shall have at any time the right to inquire into the management of such institutions.

[*Orphans, Aged Indigents, Needy Blind—County Support*]

(6) Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

[*Receipts and Expenditures of Public Moneys*]

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. [*New section adopted November 5, 1974.*]

[*Loan Guarantees re Nonprofit Corporations and Public Agencies*]

SEC. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient fa-

cility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. [*New section adopted November 5, 1974.*]

SEC. 4½. [*Repealed November 6, 1962.*]

[*Religious Institutions—Grants Prohibited*]

SEC. 5. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI. [*New section adopted November 5, 1974.*]

[*Gifts or Loans of Public Moneys or Pledging of Credit Prohibited—Stock of Corporations*]

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system

situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

[*Insurance Pooling Arrangements*]

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

[*Aid to Veterans*]

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

[*Disaster Assistance*]

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

[*Temporary Transfers of Funds to Political Subdivisions*]

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers

from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue. [*As amended November 2, 1982.*]

[*Controller's Warrants*]

SEC. 7. Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant. [*New section adopted November 5, 1974.*]

[*School Funding Priority*]

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund pro-

ceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capital General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund rev-

enues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, ''changes in enrollment'' shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV. [*As amended June 5, 1990. Operative July 1, 1990.*]

SEC. 8½. [*Repealed November 6, 1962.*]

[*Allocations to State School Fund*]

SEC. 8.5. (a) In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIII B to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of the California Community Col-

leges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditure per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.

(c) From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Fish and Game*]

SEC. 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto. [*New section adopted November 5, 1974.*]

[*Aged Aid—Federal-State Co-operation*]

SEC. 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20† of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization. [*As amended November 6, 1962.*]

[*Relief Administration*]

SEC. 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter

† Section 20, Article XI, repealed June 2, 1970.

enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper. [*As amended November 6, 1962.*]

SEC. 12. [*Repealed November 6, 1962.*]

[*Legislative Power to Release Encumbrances Taken as Security for Aid to Aged*]

SEC. 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons. [*As amended November 6, 1962.*]

[*Bonds—Environmental Pollution Control Facilities*]

SEC. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted November 7, 1972.*]

[*Energy Alternative Sources Facilities—Acquisition, Construction, Etc.—Revenue Bond Issuance*]

SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other al-

ternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted June 3, 1980.*]

[*Parking Meter Revenues*]

SEC. 15. A public body authorized to issue securities to provide public parking facilities and any other public body whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security. [*New section adopted November 5, 1974.*]

[*Taxation of Redevelopment Projects*]

SEC. 16. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by reason of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and those taxes (the word ''taxes'' as used herein includes, but is not limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called ''taxing agencies'') after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid (for the

purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and

(b) Except as provided in subdivision (c), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or

a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

The Legislature shall enact those laws as may be necessary to enforce the provisions of this section. [*As amended November 8, 1988.*]

SEC. 16.5. [*Repealed November 6, 1962.*]

[*State's Credit—Investment of Public Pension or Retirement Funds*]

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then pre-

vailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

(h) As used in this section, the term ''retirement board'' shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term ''retirement board'' shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system. [*As amended November 3, 1992. Initiative measure.*]

[*Municipal Debt Exceeding Income*]

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the

manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness.

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority or 55 percent of the voters, as the case may be, voting on any one of those propositions, vote in favor thereof, the proposition shall be deemed adopted. [*As amended November 7, 2000. Initiative measure.*]

[*Public Improvement Proceedings by Chartered City or County*]

SEC. 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a

of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both. [*New section adopted November 5, 1974.*]

SEC. 19.5. [*Repealed November 6, 1962.*]

[*Budget Stabilization Account*]

SEC. 20. (a) The Budget Stabilization Account is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars ($8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars ($5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any finds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund. [*New section adopted March 2, 2004.*]

SEC. 21. [*Repealed November 6, 1962.*]

ARTICLE XVII. [*Repealed June 8, 1976.*]

ARTICLE XVIII. [*Repealed November 3, 1970. See Article XVIII, below.*]

ARTICLE XVIII*

AMENDING AND REVISING THE CONSTITUTION

SECTION 1. [*Repealed November 3, 1970. See Section 1, below.*]

[*By Legislature*]

SECTION 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately. [*New section adopted November 3, 1970.*]

* New Article XVIII adopted November 3, 1970.

SEC. 2. [*Repealed November 3, 1970. See Section 2, below.*]

[*Constitutional Convention*]

SEC. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable. [*New section adopted November 3, 1970.*]

[*Initiatives*]

SEC. 3. The electors may amend the Constitution by initiative. [*New section adopted November 3, 1970.*]

[*Effective Date—Conflict*]

SEC. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [*New section adopted November 3, 1970.*]

ARTICLE XIX*

MOTOR VEHICLE REVENUES

SECTION 1. [*Repealed June 4, 1974. See Section 1, below.*]

[*Use of Fuel Taxes*]

SECTION 1. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the adminstrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs

* Former Article XXVI, as renumbered June 8, 1976.

necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services. [*New section adopted June 4, 1974.*]

SEC. 2. [*Repealed June 4, 1974. See Section 2, below.*]

[*Use of Motor Vehicle Fees and Taxes*]

SEC. 2. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section 1 of this article. [*New section adopted June 4, 1974.*]

SEC. 3. [*Repealed June 4, 1974. See Section 3, below.*]

[*Appropriations by the Legislature—Regulation of Expenditures, Etc.*]

SEC. 3. The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan. [*New section adopted June 4, 1974.*]

SEC. 4. [*Repealed June 4, 1974. See Section 4, below.*]

[*Authorization and Approval for Expenditures*]

SEC. 4. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an

election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1. [*New section adopted June 4, 1974.*]

[*Expenditures for Payment of Bonds*]

SEC. 5. The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes. [*New section adopted June 4, 1974.*]

SEC. 6. [*Repealed November 3, 1998. See Section 6, below.*]

[*Loans to State General Fund*]

SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.

(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:

(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.

(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.

(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it

was borrowed, not later than four years after the date on which the loan was made. [*New section adopted November 3, 1998.*]

[*Scope of Article*]

SEC. 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes. [*New section adopted June 4, 1974.*]

[*Use of Excess Lands for Parks and Recreation*]

SEC. 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes. [*New section adopted June 8, 1976.*]

[*Transfer of Surplus State Property Located in Coastal Zone*]

SEC. 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the state to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, ''coastal zone'' means ''coastal zone'' as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977. [*New section adopted November 7, 1978.*]

ARTICLE XIX A*

LOANS FROM THE PUBLIC TRANSPORTATION ACCOUNT OR LOCAL TRANSPORTATION FUNDS

[*Loans to State General Fund*]

SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may be loaned to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.

* New Article XIX A adopted November 3, 1998.

(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:

(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.

(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year. [*New section adopted November 3, 1998.*]

[*''Local Transportation Fund''*]

SEC. 2. (a) As used in this section, a ''local transportation fund'' is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

(d) Money in a local transportation fund shall be allocated only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision. [*New section adopted November 3, 1998.*]

ARTICLE XIX B*

MOTOR VEHICLE FUEL SALES TAX REVENUES AND TRANSPORTATION IMPROVEMENT FUNDING

[*Transfer and Allocation of Funds*]

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

* New Article XIX B adopted November 5, 2002.

(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). [*As amended November 7, 2006.*]

ARTICLE XX

MISCELLANEOUS SUBJECTS

[*Sacramento County Consolidation With City or Cities*]

SECTION 1. Notwithstanding the provisions of Section 6 of Article XI, the County of Sacramento and all or any of the cities within the County of Sacramento may be consolidated as a charter city and county as provided by statute, with the approval of a majority of the electors of the county voting on the question of such consolidation and upon such other vote as the Legislature may prescribe in such statute. The charter City and County of Sacramento shall be a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [*New section adopted June 4, 1974.*]

[*Protection of Homesteads*]

SEC. 1.5. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families. [*New section adopted June 8, 1976.*]

[*Leland Stanford Junior University—Henry E. Huntington Library and Art Gallery*]

SEC. 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10† and 15† of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect. [*Former Section 6, as renumbered June 8, 1976.*]

[*Oath of Office*]

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the

† Sections 10 and 15 of Article IX repealed November 5, 1974.

State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows:

_____

(If no affiliations, write in the words ''No Exceptions'')

and that during such time as I hold the office of_____

(name of office)

I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means.''

And no other oath, declaration, or test, shall be required as a qualification for any public office or employment.

''Public officer and employee'' includes every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing. [*As amended November 4, 1952.*]

SEC. 3.5. [*Repealed November 3, 1970.*]

[*Franchises*]

SEC. 4. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges. [*Former Section 7, as renumbered June 8, 1976.*]

SEC. 5. [*Repealed June 8, 1976. See Section 5, below.*]

[*Laws Concerning Corporations*]

SEC. 5. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed. [*Former Section 24, as renumbered June 8, 1976.*]

SEC. 6. [*Renumbered Section 2 June 8, 1976. See Section 6, below.*]

[*Reduction in Legislator's Term of Office—Retirement Benefits, Etc.*]

SEC. 6. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Consti-

tution, be entitled to retirement benefits and compensation as if the term of office had not been so reduced. [*Former Section 25, as renumbered June 8, 1976.*]

[*Constitutional Officers—Number of Terms*]

SEC. 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term. [*New section adopted November 6, 1990. Initiative measure.*]

SEC. 8. [*Renumbered Section 21 of Article I and amended November 5, 1974.*]

SEC. 9. [*Repealed November 3, 1970.*]

SEC. 10. [*Repealed June 8, 1976.*]

SEC. 11. [*Repealed June 8, 1976.*]

SEC. 12. [*Repealed November 3, 1970.*]

SEC. 13. [*Repealed November 3, 1970.*]

SEC. 14. [*Repealed November 3, 1970.*]

SEC. 15. [*Repealed June 8, 1976.*]

SEC. 16. [*Repealed November 7, 1972.*]

SEC. 17. [*Repealed June 8, 1976.*]

SEC. 17½. [*Repealed June 8, 1976.*]

SEC. 18. [*Renumbered Section 8 of Article I and amended November 5, 1974.*]

SEC. 19. [*Repealed June 8, 1976.*]

SEC. 20. [*Repealed June 8, 1976.*]

SEC. 21. [*Repealed June 8, 1976.*]

[*Liquor Control*]

SEC. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the impor-

tation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

[*Licensed Premises—Types of Licenses*]

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

(a) For bona fide public eating places, as defined by the Legislature.

(b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.

(c) For public premises for the sale and service of beers alone.

(d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

[*Service or Sale to Minors*]

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

[*Director of Alcoholic Beverage Control*]

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

[*Department of Alcoholic Beverage Control—Powers—Duties*]

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

[*Alcoholic Beverage Control Appeals Board*]

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

[*Appeals—Reviews—Reversals*]

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the

board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

[*Removal of Director or Board Members*]

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

[*Licenses—Regulation—Fees*]

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between

the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

This amendment shall become operative on January 1, 1957. [*As amended November 6, 1956. Operative January 1, 1957.*]

[*State Colleges—Speaker, Member of Governing Body*]

SEC. 23. Notwithstanding any other provision of this Constitution, the Speaker of the Assembly shall be an ex officio member, having equal rights and duties with the nonlegislative members, of any state agency created by the Legislature in the field of public higher education which is charged with the management, administration, and control of the State College System of California. [*New section adopted November 3, 1970.*]

SEC. 24. [*Renumbered Section 5 June 8, 1976.*]

SEC. 25. [*Renumbered Section 6 June 8, 1976.*]

ARTICLE XXI*

REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

[*Reapportionment Following National Census*]

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

[*Standards*]

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

* New Article XXI adopted June 3, 1980.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section. [*New section adopted June 3, 1980.*]

ARTICLE XXII*

ARCHITECTURAL AND ENGINEERING SERVICES

[*Authority of Government to Contract for Architectural and Engineering Services*]

SECTION 1. The State of California and all other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract shall extend to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. The choice and authority shall exist without regard to funding sources whether federal, state, regional, local or private, whether or not the project is programmed by a state, regional or local governmental entity, and whether or not the completed project is a part of any state owned or state operated system or facility. [*New section adopted November 7, 2000. Initiative measure.*]

[Construction of Article VII]

SEC. 2. Nothing contained in Article VII of this Constitution shall be construed to limit, restrict or prohibit the State or any other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local with regional agencies and joint power agencies, from contracting and private entities for the performance of architectural and engineering services. [*New section adopted November 7, 2000. Initiative measure.*]

ARTICLE XXIII. [*Repealed June 8, 1976.*]

ARTICLE XXIV. [*Repealed June 8, 1976.*]

ARTICLE XXV. [*Repealed November 8, 1949. Initiative measure.*]

ARTICLE XXVI. [*Renumbered Article XIX June 8, 1976.*]

* New Article XXII adopted November 7, 2000. Initiative measure.

ARTICLE XXVII. [*Repealed November 3, 1970.*]

ARTICLE XXVIII. [*Repealed November 5, 1974.*]

ARTICLE XXXIV*

PUBLIC HOUSING PROJECT LAW

[*Approval of Low Rent Housing Projects by Electors*]

SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

[*''Low Rent Housing Project''*]

For the purposes of this article the term ''low rent housing project'' shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded from the term ''low rent housing project'' any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

[*''Persons of Low Income''*]

For the purposes of this Article only ''persons of low income'' shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

[*''State Public Body''*]

For the purposes of this Article the term ''state public body'' shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

* New article adopted November 7, 1950. Initiative measure.

[*"Federal Government"*]

For the purposes of this Article the term "Federal Government" shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America. [*New section adopted November 7, 1950. Initiative measure.*]

[*Self-executing Provisions*]

SEC. 2. The provisions of this Article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation. [*New section adopted November 7, 1950. Initiative measure.*]

[*Constitutionality of Article*]

SEC. 3. If any portion, section or clause of this Article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby. [*New section adopted November 7, 1950. Initiative measure.*]

[*Scope of Article*]

SEC. 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*New section adopted November 7, 1950. Initiative measure.*]

ARTICLE XXXV*

MEDICAL RESEARCH

[*California Institute for Regenerative Medicine*]

SECTION 1. There is hereby established the California Institute for Regenerative Medicine. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Purposes*]

SEC. 2. The institute shall have the following purposes:

(a) To make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and/or medical procedures that will result in, as speedily as possible, the cure for, and/or substantial mitigation of, major diseases, injuries, and orphan diseases.

(b) To support all stages of the process of developing cures, from laboratory research through successful clinical trials.

* New Article XXXV adopted November 2, 2004. Initiative measure.

(c) To establish the appropriate regulatory standards and oversight bodies for research and facilities development. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Use of Funds for Cloning Research*]

SEC. 3. No funds authorized for, or made available to, the institute shall be used for research involving human reproductive cloning. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Funds*]

SEC. 4. Funds authorized for, or made available to, the institute shall be continuously appropriated without regard to fiscal year, be available and used only for the purposes provided in this article, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose. [*New section adopted November 2, 2004. Initiative measure.*]

[*Right to Conduct Stem Cell Research*]

SEC. 5. There is hereby established a right to conduct stem cell research which includes research involving adult stem cells, cord blood stem cells, pluripotent stem cells, and/or progenitor cells. Pluripotent stem cells are cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. Progenitor cells are multipotent or precursor cells that are partially differentiated, but retain the ability to divide and give rise to differentiated cells. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Utilization of Bonds*]

SEC. 6. Notwithstanding any other provision of this Constitution or any law, the institute, which is established in state government, may utilize state issued tax-exempt and taxable bonds to fund its operations, medical and scientific research, including therapy development through clinical trials, and facilities. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Civil Service Exemption*]

SEC. 7. Notwithstanding any other provision of this Constitution, including Article VII, or any law, the institute and its employees are exempt from civil service. [*New section adopted November 2, 2004. Initiative measure.*]

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LIST OF OFFICERS

LIST OF OFFICERS

2007

STATE CAPITOL AND OTHER BUILDINGS

Sacramento 95814

Name	Office	Residence
Arnold Schwarzenegger	Governor	Los Angeles
John Garamendi	Lieutenant Governor	Walnut Grove
Debra Bowen	Secretary of State	Marina del Rey
John Chiang	Controller	Los Angeles
Bill Lockyer	Treasurer	Sacramento
Edmund G. Brown Jr.	Attorney General	Oakland
Steve Poizner	Insurance Commissioner	Los Gatos
Jack O'Connell	Superintendent of Public Instruction	San Luis Obispo
Diane F. Boyer-Vine	Legislative Counsel	Sacramento

OFFICE OF GOVERNOR

Susan P. Kennedy ..... Chief of Staff
Ricardo Sarmiento ..... Appointments Secretary
Sharon Majors-Lewis ..... Judicial Appointments Secretary
Dan Dunmoyer ..... Cabinet Secretary
Andrea Hoch ..... Legal Affairs Secretary
Chris Kahn ..... Legislative Affairs Secretary
Aaron McLear ..... Press Secretary
Elizabeth Beisler ..... Director of Scheduling
Adam Mendelsohn ..... Deputy Chief of Staff Communications
Kevin Luiz ..... Director of Advance

Offices: State Capitol, Sacramento 95814

STATE BOARD OF EQUALIZATION

450 N Street, Sacramento 95814

Name	Office	Residence
Betty T. Yee	Board Member, First District	San Francisco
Bill Leonard	Board Member, Second District	Sacramento
Michelle Steel.	Board Member, Third District	Rolling Hills Estates
Judy Chu	Board Member, Fourth District	Monterey Park
John Chiang (Controller)	Ex-Officio Member	Los Angeles

LEGISLATIVE DEPARTMENT

UNITED STATES SENATORS

Dianne Feinstein (D)..... 331 Hart Senate Office Building, Room 331
Washington, D.C. 20510
One Post Street, Suite 2450, San Francisco 94104

Barbara Boxer (D).....112 Hart Senate Office Building
Washington, D.C. 20510
1700 Montgomery Street, Suite 240, San Francisco 94111

REPRESENTATIVES IN CONGRESS

Name	Party	District	Counties	Main District Office*
Baca, Joe	D	43	San Bernardino.....	201 N.E. Street, Suite 102 San Bernardino 92401
Becerra, Xavier	D	31	Los Angeles.....	1910 Sunset Blvd., #560 Los Angeles 90026
Berman, Howard L.	D	28	Los Angeles.....	14546 Hamlin St., Suite 202 Van Nuys 91411
Bilbray, Brian P.	R	50	San Diego.....	462 Stevens Ave., Suite 107 Solana Beach 92075
Bono, Mary	R	45	Riverside	707 E. Tahquitz Canyon Way, Suite 9, Palm Springs 92262; 1600 E. Florida Ave., Suite 301 Hemet 92544
Calvert, Ken	R	44	Orange, Riverside.....	3400 Central Ave., #200 Riverside 92506; 26111 Antonio Pky., Suite 300 Las Flores 92688
Campbell, John	R	48	Orange.....	610 Newport Center Drive, Suite 330 Newport Beach 92660
Capps, Lois	D	23	San Luis Obispo, Santa Barbara, Ventura.....	1216 State St., #403 Santa Barbara 93101; 1411 Marsh St., Suite 205 San Luis Obispo 93401; 141 S. A St., Suite 204 Oxnard 93030
Cardoza, Dennis A.	D	18	Fresno, Madera, Merced, San Joaquin, Stanislaus.....	1321 I St., #1 Modesto 95354; 2222 M St., Suite 305 Merced 95340; 137 E. Weber Ave., Stockton 95202; 1010 10th St., Suite 5800 Modesto 95354
Costa, Jim	D	20	Fresno, Kern, Kings	855 M St., Suite 940, Fresno 93721; 2700 M St., Suite 225 Bakersfield 93301
Davis, Susan A.	D	53	San Diego.....	4305 University Ave., Suite 515 San Diego 92105
Doolittle, John T.	R	4	Butte, El Dorado, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Sierra	4230 Douglas Blvd., #200 Granite Bay 95746
Dreier, David	R	26	Los Angeles, San Bernardino.....	2220 E. Route 66, Suite 225 Glendora 91740
Eshoo, Anna G.	D	14	San Mateo, Santa Clara, Santa Cruz.....	698 Emerson St. Palo Alto 94301
Farr, Sam.....	D	17	Monterey, San Benito, Santa Cruz.....	100 W. Alisal St. Salinas 93901; 701 Ocean St., Room 318 Santa Cruz 95060
Filner, Bob	D	51	Imperial, San Diego	333 F St., Suite A Chula Vista 91910; 1101 Airport Road, Suite D Imperial 92251

REPRESENTATIVES IN CONGRESS—Continued

Name	Party	District	Counties	Main District Office*
Gallegly, Elton	R	24	Santa Barbara, Ventura	2829 Townsgate Road, Suite 315 Thousand Oaks 91361-3018; 485 Alisal Road, Suite G-1A Solvang 93463
Harman, Jane	D	36	Los Angeles	2321 E. Rosecrans Ave., Suite 3270 El Segundo 90245
Herger, Wally	R	2	Butte, Colusa, Glenn, Shasta, Siskiyou, Sutter, Tehama, Trinity, Yolo, Yuba	55 Independence Circle, #104 Chico 95973; 410 Hemsted Drive, Suite 115 Redding 96002
Honda, Michael M.	D	15	Santa Clara	1999 S. Bascom Ave., Suite 815 Campbell 95008
Hunter, Duncan	R	52	San Diego	1870 Cordell Ct., Suite 206 El Cajon 92020
Issa, Darrell E.	R	49	Riverside, San Diego	1800 Thibodo Road, Suite 310 Vista 92083
Lee, Barbara	D	9	Alameda	1301 Clay St., #1000N Oakland 94612
Lewis, Jerry	R	41	Riverside, San Bernardino	1150 Brookside Ave., #J-5 Redlands 92373
Lofgren, Zoe	D	16	Santa Clara	635 N. First St., Suite B San Jose 95112
Lungren, Daniel E.	R	3	Alpine, Amador, Calaveras, Sacramento, Solano	11246 Gold Express Drive, Suite 101 Gold River 95670
Matsui, Doris O.	D	5	Sacramento	501 I St., #12-600 Sacramento 95814
McCarthy, Kevin	R	22	Kern, Los Angeles, San Luis Obispo	1523 Longworth HOB, Washington, D.C. 20515
McKeon, Howard P. "Buck"	R	25	Inyo, Los Angeles, Mono, San Bernardino	26650 The Old Road, Suite 203 Santa Clarita 91381; 1008 W. Avenue M-14, Suite E-1 Palmdale 93551
McNerney, Jerry	R	11	Alameda, Contra Costa, San Joaquin, Santa Clara	312 Cannon HOB, Washington, D.C. 20515
Miller, Gary G.	R	42	Los Angeles, Orange, San Bernardino	1800 E. Lambert Road, Suite 150 Brea 92821; 200 Civic Center, Mission Viejo 92691
Miller, George	D	7	Contra Costa, Solano	1333 Willow Pass Road, #203 Concord 94520; 3220 Blume Drive, Suite 281 Richmond 94806; 375 G Street, Suite 1 Vallejo 94592
Napolitano, Grace F.	D	38	Los Angeles	11627 E. Telegraph Road, #100 Santa Fe Springs 90670
Nunes, Devin	R	21	Fresno, Tulare	113 N. Church St., Suite 208 Visalia 93291; 264 Clovis Avenue, Suite 206 Clovis 93612
Pelosi, Nancy	D	8	San Francisco	450 Golden Gate Ave., 14th Floor San Francisco 94102
Radanovich, George P.	R	19	Fresno, Madera, Mariposa, Stanislaus, Tuolumne	1040 E. Herndon, Suite 201 Fresno 93720; 121 Main St., Suite I Turlock 95380
Richardson, Laura	D	37	Los Angeles	2233 Rayburn HOB, Washington, DC 20515
Rohrabacher, Dana	R	46	Los Angeles, Orange	101 Main St., #380 Huntington Beach 92648
Roybal-Allard, Lucille	D	34	Los Angeles	255 E. Temple St., #1860 Los Angeles 90012
Royce, Edward R.	R	40	Orange	305 N. Harbor Blvd., #300 Fullerton 92832
Sanchez, Linda T.	D	39	Los Angeles	17906 Crusader Ave., Suite 100 Cerritos 90703

REPRESENTATIVES IN CONGRESS—Continued

Name	Party	District	Counties	Main District Office*
Sanchez, Loretta	D	47	Orange	12397 Lewis St., #101 Garden Grove 92840
Schiff, Adam B.	D	29	Los Angeles	87 N. Raymond Ave., Suite 800 Pasadena 91103
Sherman, Brad	D	27	Los Angeles	5000 Van Nuys Blvd., Suite 420 Sherman Oaks 91403
Solis, Hilda L.	D	32	Los Angeles	4401 Santa Anita Ave., #211 El Monte 91731
Stark, Fortney Pete	D	13	Alameda	39300 Civic Center Drive, #220 Fremont 94538
Tauscher, Ellen O.	D	10	Alameda, Contra Costa, Sacramento, Solano	2121 N. California Blvd., #555 Walnut Creek 94596; 420 W. 3rd St., Antioch 94509; 2000 Cadenasso Drive, Suite A Fairfield 94533
Thompson, Mike	D	1	Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, Yolo	1040 Main St., #101 Napa 94559; 317 3rd St., Suite 1 Eureka 95501; 430 N. Franklin St., PO Box 2208, Fort Bragg 95437; 712 Main St., Suite 1 Woodland 95695
Waters, Maxine	D	35	Los Angeles	10124 S. Broadway, #1 Los Angeles 90003
Watson, Diane E.	D	33	Los Angeles	4322 Wilshire Blvd., Suite 302 Los Angeles 90010
Waxman, Henry A.	D	30	Los Angeles	8436 W. 3rd St., #600 Los Angeles 90048
Woolsey, Lynn C.	D	6	Marin, Sonoma	1050 Northgate Drive, Suite 354 San Rafael 94903; 1101 College Ave., Suite 200 Santa Rosa 95404
Vacant	–	12	San Francisco, San Mateo	

* During Sessions of Congress, mail for Members of the Senate may be addressed: Senate Office Building, Washington, D.C. 20510, and Members of the House of Representatives: House Office Building, Washington, D.C. 20515.

THE STATE LEGISLATURE

MEMBERS OF THE SENATE

Name	Occupation	Party	Dist.	Counties	District Address
Aanestad, Sam	Oral Surgeon	R	4	Butte, Colusa, Del Norte, Glenn, Nevada, Placer, Shasta, Siskiyou, Sutter, Tehama, Trinity, Yuba	411 Main St., 3rd Floor Chico 95928 Ph: (530) 895-6088; 2967 Davison Court, Suite A-1, Colusa 95932 Ph: (530) 458-4161; 200 Providence Mine Road, Suite 108, Nevada City 95959 Ph: (530) 470-1846; 2400 Washington Ave., Suite 301, Redding 96001 Ph: (530) 225-3142
Ackerman, Dick	Attorney	R	33	Orange	17821 E. 17th Street, Suite 180, Tustin 92780 Ph: (714) 573-1853
Alquist, Elaine	Educator	D	13	Santa Clara	100 Paseo de San Antonio, Suite 209, San Jose 95113 Ph: (408) 286-8318
Ashburn, Roy	Full-time Legislator	R	18	Inyo, Kern, San Bernardino, Tulare	5001 California Ave., Suite 105, Bakersfield 93309 Ph: (661) 323-0443
Battin, Jim	Businessman	R	37	Riverside	13800 Heacock, Suite C112, Moreno Valley 92553 Ph: (951) 653-9502; 73-710 Fred Waring Drive, Suite 112, Palm Desert 92260 Ph: (760) 568-0408
Calderon, Ron	Full-time Legislator	D	30	Los Angeles	400 N. Montebello Blvd., Suite 100, Montebello 90640. Ph: (323) 890-2795
Cedillo, Gilbert	Full-time Legislator	D	22	Los Angeles	617 S. Olive St., Suite 710, Los Angeles 90014 Ph: (213) 612-9566
Cogdill, Dave	Private Business Owner	R	14	Fresno, Madera, Mariposa, San Joaquin, Stanislaus, Tuolumne	4974 E. Clinton, Suite 100, Fresno 93727 Ph: (559) 253-7122; 1308 W. Main St., Suite B, Ripon 95366 Ph: (209) 599-8540
Corbett, Ellen	Attorney	D	10	Alameda, Santa Clara	43081 Mission Blvd., Suite 103, Fremont 94539 Ph: (510) 413-5960
Correa, Lou	Full-time Legislator	D	34	Orange	12397 Lewis St., Suite 103, Garden Grove 92840 Ph: (714) 705-1580
Cox, Dave	Businessman/ Legislator	R	1	Alpine, Amador, Calaveras, El Dorado, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, Sierra	33C Broadway, Jackson 95642. Ph: (209) 223-9140; 1020 N St., Room 568, Sacramento 95814 Ph: (916) 327-9034; 2140 Professional Drive, Suite 140, Roseville 95661 Ph: (916) 783-8232; 2094 E. Main St., Quincy 95971. Ph: (530) 283-3437
Denham, Jeff	Agriculture Business	R	12	Madera, Merced, Monterey, San Benito, Stanislaus	1640 N St., Suite 210, Merced 95340 Ph: (209) 726-5495; 1231 8th St., Suite 175, Modesto 95354 Ph: (209) 577-6592; 369 Main St., #208, Salinas 93901 Ph: (831) 769-8040

MEMBERS OF THE SENATE—Continued

Name	Occupation	Party	Dist.	Counties	District Address
Ducheny, Denise Moreno	Attorney	D	40	Imperial, Riverside, San Diego	637 3rd Ave., Suite C, Chula Vista 91910 Ph: (619) 409-7690; 53-990 Enterprise Way, Suite 14, Coachella 92236 Ph: (760) 398-6442; 1224 State St., Suite D, El Centro 92243 Ph: (760) 335-3442
Dutton, Robert.	Small Business Owner	R	31	Riverside, San Bernardino	8577 Haven Ave., Suite 210, Rancho Cucamonga 91730 Ph: (909) 466-4180; 3560 University Ave., Riverside 92501 Ph: (951) 715-2625
Florez, Dean	Businessman	D	16	Fresno, Kern, Kings, Tulare	1800 30th St., Suite 350, Bakersfield 93301 Ph: (661) 395-2620; 2550 Mariposa Mall, Suite 2016, Fresno 93721 Ph: (559) 264-3070
Harman, Tom	Attorney	R	35	Orange	950 S. Coast Drive, Suite 240, Costa Mesa 92626 Ph: (714) 957-4555
Hollingsworth, Dennis	Farmer's Representative/ Businessman	R	36	Riverside, San Diego	1870 Cordell Court, Suite 107, El Cajon 92020 Ph: (619) 596-3136; 27555 Ynez Road, Suite 204, Temecula 92591 Ph: (951) 676-1020
Kehoe, Christine	Full-time Legislator	D	39	San Diego	2445 Fifth Ave., Suite 200, San Diego 92101 Ph: (619) 645-3133
Kuehl, Sheila James	Full-time Legislator	D	23	Los Angeles, Ventura	10951 W. Pico Blvd., #202, Los Angeles 90064 Ph: (310) 441-9084; 300 W. Third Street, Oxnard 93030 Ph: (805) 486-3776
Lowenthal, Alan	Professor	D	27	Los Angeles	115 Pine Ave., Suite 430, Long Beach 90802 Ph: (562) 495-4766
Machado, Mike	Farmer/ Businessman	D	5	Sacramento, San Joaquin, Solano, Yolo	1020 N Street, Suite 506, Sacramento 95814 Ph: (916) 323-4306; 31 E. Channel St., Room 440, Stockton 95202 Ph: (209) 948-7930; 1010 Nut Tree Road, Suite 185, Vacaville 95687 Ph: (707) 454-3808
Maldonado, Abel	Businessman	R	15	Monterey, San Luis Obisbo, Santa Barbara, Santa Clara, Santa Cruz	590 Calle Principal, Monterey 93940 Ph: (831) 657-3675; 100 Paseo de San Antonio, Suite 206, San Jose 95113 Ph: (408) 277-9461; 1356 Marsh St., San Luis Obispo 93401 Ph: (805) 549-3784
Margett, Bob	Businessman	R	29	Los Angeles, Orange, San Bernardino	2605 E. Foothill Blvd., Suite A, Glendora 91740 Ph: (626) 914-5046
McClintock, Tom	Budget Reduction Analyst	R	19	Los Angeles, Santa Barbara, Ventura	223 E. Thousand Oaks Blvd., Suite 326, Thousand Oaks 91360. Ph: (805) 494-8808

MEMBERS OF THE SENATE—Continued

Name	Occupation	Party	Dist.	Counties	District Address
Migden, Carole	Full-time Legislator.....	D	3	Marin, San Francisco, Sonoma.....	3501 Civic Center, Room 425, San Rafael 94903 Ph: (415) 479-6612; 455 Golden Gate Ave., Suite 14800, San Francisco 94102. Ph: (415) 557-1300
Negrete McLeod, Gloria	Full-time Legislator.....	D	32	Los Angeles, San Bernardino.....	4959 Palo Verde St., Suite 100B, Montclair 91763 Ph: (909) 621-2783
Oropeza, Jenny.....	Full-time Legislator.....	D	28	Los Angeles.....	2512 Artesia Blvd., Suite 200, Redondo Beach 90278. Ph: (310) 318-6994
Padilla, Alex	Full-time Legislator.....	D	20	Los Angeles.....	6150 Van Nuys Blvd., Suite 400, Van Nuys 91401 Ph: (818) 901-5588
Perata, Don	Speaker pro Tempore/ Teacher	D	9	Alameda, Contra Costa.....	1515 Clay St., Suite 2202 Oakland 94612 Ph: (510) 286-1333; 300 S. Spring St., Suite 8501, Los Angeles 90013 Ph: (213) 620-3000
Ridley-Thomas, Mark.....	Full-time Legislator.....	D	26	Los Angeles.....	Administrative Offices East, 700 State Drive, Los Angeles 90037 Ph: (213) 745-6656
Romero, Gloria	Professor	D	24	Los Angeles.....	149 S. Mednik Avenue, Suite 202, Los Angeles 90022 Ph: (323) 881-0100
Runner, George	Full-time Legislator.....	R	17	Los Angeles, San Bernardino, Ventura	848 W. Lancaster Blvd., Suite 101, Lancaster 93534 Ph: (661) 729-6232; 23920 Valencia Blvd., Suite 250, Santa Clarita 91355 Ph: (661) 286-1471; 14343 Civic Drive, PO Box 5001, Victorville 92392 Ph: (760) 843-8414
Scott, Jack	Legislator/ Professor.....	D	21	Los Angeles.....	215 N. Marengo Avenue, Suite 185, Pasadena 91101 Ph: (626) 683-0282
Simitian, Joseph.....	Full-time Legislator.....	D	11	San Mateo, Santa Clara, Santa Cruz .	160 Town and Country Village, Palo Alto 94301 Ph: (650) 688-6384; 701 Ocean Street, Room 318A, Santa Cruz 95060 Ph: (831) 425-0401
Steinberg, Darrell....	Attorney	D	6	Sacramento.....	1020 N St., Suite 576 Sacramento 95814 Ph: (916) 651-4006
Torlakson, Tom	Educator	D	7	Contra Costa.....	2801 Concord Blvd., Concord 94519 Ph: (925) 602-6593; 420 W. 3rd Street, Antioch 94509 Ph: (925) 754-1461
Vincent, Edward	Legislator	D	25	Los Angeles.....	1 Manchester Boulevard, Suite 600, Inglewood 90301. Ph: (310) 412-0393
Wiggins, Patricia "Pat".....	Full-time Legislator.....	D	2	Humboldt, Lake, Mendocino, Napa, Solano, Sonoma ...	710 E St., Suite 150, Eureka 95501 Ph: (707) 445-6508; 50 D St., Suite 120A, Santa Rosa 95404 Ph: (707) 576-2771; 444 Georgia St., Vallejo 94590. Ph: (707) 648-5312

MEMBERS OF THE SENATE—Continued

Name	Occupation	Party	Dist.	Counties	District Address
Wyland, Mark	Full-time Legislator.....	R	38	Orange, San Diego ..	27126A Paseo Espada, Suite 1621, San Juan Capistrano 92675. Ph: (949) 489-9838; 1910 Palomar Point Way, Suite 105, Carlsbad 92008 Ph: (760) 931-2455
Yee, Leland Y.	Child Psychologist ...	D	8	San Francisco, San Mateo	455 Golden Gate Ave., Suite 14200, San Francisco 94102. Ph: (415) 557-7857; 400 S. El Camino Real, Suite 630, San Mateo 94402. Ph: (650) 340-8840

OFFICERS AND ATTACHÉS OF THE SENATE

Title	Name	Capitol Office
President of Senate	John Garamendi	1114 State Capitol
President pro Tempore	Don Perata	205 State Capitol
Secretary of Senate	Gregory Schmidt	3044 State Capitol
Sergeant at Arms	Tony Beard, Jr.	3030 State Capitol
Chaplain	Rev. James D. Richardson	3044 State Capitol
Chief Assistant Secretary	David Valverde	3044 State Capitol
Minute Clerk	Paula K. Rossetto	3044 State Capitol
History Clerk	Neva Marie Parker	3044 State Capitol
Assistant Secretary	Bernadette McNulty	3044 State Capitol
File Clerk	Marlissa Hernandez	3044 State Capitol
Engrossing and Enrolling Clerk	Joan Middlekauff	B30 State Capitol

MEMBERS OF THE ASSEMBLY

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Adams, Anthony..	Full-time Legislator.....	R	59	4015	Los Angeles, San Bernardino.....	14955 Dale Evans Pky., Room 111, Apple Valley 92307 135 W. Lemon Ave., Suite A, Monrovia 91016
Aghazarian, Greg	Small Businessman.....	R	26	4167	San Joaquin, Stanislaus	4557 Quail Lakes Drive, Suite C3, Stockton 95207; 222 S. Thor Street, Suite 21C, Turlock 95380
Anderson, Joel.....	Businessman	R	77	2111	San Diego.....	500 Fesler St., Suite 201, El Cajon 92020
Arambula, Juan ...	Legislator	D	31	2141	Fresno, Tulare	2550 Mariposa Mall, Room 5031, Fresno 93721
Bass, Karen	Majority Floor Leader/ Legislator.....	D	47	319	Los Angeles.....	5750 Wilshire Blvd., Suite 565, Los Angeles 90036
Beall, Jr., Jim.....	Full-time Legislator.....	D	24	5016	Santa Clara.....	100 Paseo de San Antonio, Suite 319, San Jose 95113
Benoit, John J.	Law Enforcement	R	64	4144	Riverside	1223 University Ave., Suite 230, Riverside 92507
Berg, Patty.....	Social Worker/ Legislator.....	D	1	4146	Del Norte, Humboldt, Lake, Mendocino, Sonoma, Trinity....	235 Fourth Street, Suite C, Eureka 95501; 50 D Street, Suite 450, Santa Rosa 95404; 311 N. State St., Ukiah 95482
Berryhill, Tom.....	Small Businessman.....	R	25	4116	Calaveras, Madera, Mariposa, Mono, Stanislaus, Tuolumne	1912 Standiford Ave., Suite 4, Modesto 95350
Blakeslee, Sam ...	Legislator	R	33	4117	San Luis Obispo, Santa Barbara	1104 Palm St., San Luis Obispo 93401; 509 W. Morrison Ave., Suite 9, Santa Maria 93458
Brownley, Julia....	Marketing Management.....	D	41	6011	Los Angeles, Ventura	6355 Topanga Canyon Blvd., Suite 205, Woodland Hills 91367
Caballero, Anna...	Attorney	D	28	5119	Monterey, San Benito, Santa Clara, Santa Cruz	365 Fourth St., Hollister 95023; 100 W. Alisal St., Suite 134, Salinas 93901; 231 Union St., Watsonville 95077
Calderon, Charles M.	Attorney	D	58	2117	Los Angeles.....	13181 N. Crossroads Pky., Suite 160, City of Industry 91746
Carter, Wilmer Amina	Businesswoman...	D	62	2175	San Bernardino.....	201 N. E St., Suite 205, San Bernardino 92401
Cook, Paul.....	College Professor	R	65	5164	Riverside, San Bernardino.....	34932 Yucaipa Blvd., Yucaipa 92399
Coto, Joe	Legislator	D	23	2013	Santa Clara.....	100 Paseo De San Antonio, Suite 300, San Jose 95113
Davis, Mike.....	Full-time Legislator.....	D	48	2160	Los Angeles.....	Administrative Offices West, 700 State Drive, Los Angeles 90037; 694 S. Oxford Ave., 2nd Floor, Los Angeles 90005

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
De La Torre, Hector	Legislator	D	50	3173	Los Angeles	8724 Garfield Ave., Suite 104, South Gate 90280
De León, Kevin	Full-time Legislator	D	45	4140	Los Angeles	106 N. Ave. 56, Los Angeles 90042
DeSaulnier, Mark	Small Business Owner	D	11	4162	Contra Costa	420 W. Third St., Antioch 94531
DeVore, Chuck	Legislator	R	70	4102	Orange	3 Park Plaza, Suite 275, Irvine 92614
Duvall, Michael D. "Mike"	Insurance Broker	R	72	4177	Orange	210 W. Birch St., Suite 202, Brea 92821
Dymally, Mervyn M.	University Professor	D	52	6005	Los Angeles	322 W. Compton Blvd., Suite 100, Compton 90220
Emmerson, Bill.	Legislator	R	63	4158	Riverside, San Bernardino	10681 Foothill Blvd., Suite 325, Rancho Cucamonga 91730
Eng, Mike	College Professor/ Attorney	D	49	6025	Los Angeles	1255 Corporate Center Drive, Suite PH 9, Monterey Park 91754
Evans, Noreen.	Legislator	D	7	3152	Napa, Solano, Sonoma	1040 Main St., Suite 205, Napa 94559; 50 D St., Suite 301, Santa Rosa 95404; 1713 Sonoma Blvd., Vallejo 94591
Feuer, Mike	Attorney/Educator	D	42	4005	Los Angeles	9200 Sunset Blvd., PH 15, West Hollywood 90069
Fuentes, Felipe	Legislator	D	39	3132	Los Angeles	9300 Laurel Canyon Blvd., First Floor, Arleta 91331
Fuller, Jean	Property Manager	R	32	3098	Kern, San Bernardino	4900 California Ave., Suite 100B, Bakersfield 93309
Furutani, Warren	Legislator	D	55	3126	Los Angeles	4201 Long Beach Blvd., Suite 327, Long Beach 90807
Gaines, Ted	Business Owner	R	4	2002	Alpine, El Dorado, Placer, Sacramento	1700 Eureka Road, Suite 160, Roseville 95661
Galgiani, Cathleen	Full-time Legislator	D	17	2170	Merced, San Joaquin, Stanislaus	806 W. 18th St., Merced 95340; 31 E. Channel St., Suite 306, Stockton 95202
Garcia, Bonnie	Businesswoman	R	80	4009	Imperial, Riverside	68-700 Avenida Lalo Guerrero, Suite B, Cathedral City 92234; 1450 S. Imperial Ave., El Centro 92243
Garrick, Martin	Business Owner	R	74	2016	San Diego	1910 Palomar Point Way, Suite 106, Carlsbad 92008
Hancock, Loni	Legislator	D	14	4126	Alameda, Contra Costa	712 El Cerrito Plaza, El Cerrito 94530
Hayashi, Mary	Health Care Director	D	18	2188	Alameda	22320 Foothill Blvd., Suite 540, Hayward 94541
Hernandez, Edward P.	Optometrist	D	57	4112	Los Angeles	13181 N. Crossroads Pky., Suite 160, City of Industry 91746
Horton, Shirley	Businesswoman	R	78	2174	San Diego	7144 Broadway, Lemon Grove 91945

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Houston, Guy S...	Mortgage Broker/ Real Estate.....	R	15	2130	Alameda, Contra Costa, Sacramento, San Joaquin	740 Third Street, Brentwood 94513; 1635 Chestnut Street, Suite A, Livermore 94551; 1666 N. Main St., Room 353, Walnut Creek 94596
Huff, Bob	Legislator	R	60	4098	Los Angeles, Orange, San Bernardino.....	23355 E. Golden Springs Drive, Diamond Bar 91765
Huffman, Jared....	Attorney	D	6	4139	Marin, Sonoma.....	3501 Civic Center Dr., Room 412, San Rafael 94903; 50 D St., Suite 305, Santa Rosa 95404
Jeffries, Kevin	Investor/Fire Department Manager	R	66	5128	Riverside, San Diego	41391 Kalmia St., Suite 220 Murrieta 92562
Jones, Dave	Attorney/ Legislator.....	D	9	3146	Sacramento.....	915 L St., Suite 110, Sacramento 95814
Karnette, Betty	Legislator	D	54	2136	Los Angeles.....	3711 Long Beach Blvd., Suite 801, Long Beach 90807
Keene, Rick	Attorney	R	3	2158	Butte, Lassen, Nevada, Placer, Plumas, Sierra, Yuba	1550 Humboldt Road, Suite 4, Chico 95928
Krekorian, Paul ...	Attorney	D	43	5135	Los Angeles.....	620 N. Brand Blvd., Suite 403, Glendale 91203
La Malfa, Doug...	Farmer.....	R	2	4164	Butte, Colusa, Glenn, Modoc, Shasta, Siskiyou, Sutter, Tehama, Yolo	1527 Starr Drive, Suite U, Yuba City 95993; 2865 Churn Creek Road, Suite B, Redding 96002
Laird, John	Legislator	D	27	6026	Monterey, Santa Clara, Santa Cruz	99 Pacific Street, Suite 555D, Monterey 93940; 701 Ocean Street, Room 318B, Santa Cruz 95060
Leno, Mark.....	Business Owner ..	D	13	2114	San Francisco	455 Golden Gate Ave., Suite 14300, San Francisco 94102
Levine, Lloyd E...	Legislator	D	40	5136	Los Angeles.....	6150 Van Nuys Blvd., Suite 300, Van Nuys 91401
Lieber, Sally J.	Speaker pro Tempore/ Legislator.....	D	22	3013	Santa Clara	274 Castro St., Suite 202, Mountain View 94041
Lieu, Ted W.	Attorney	D	53	4016	Los Angeles.....	1700 E. Walnut Ave., Suite 601, El Segundo 90245
Ma, Fiona	CPA	D	12	2176	San Francisco, San Mateo	455 Golden Gate Ave., Suite 14600, San Francisco 94102
Maze, Bill.....	Building Contractor/ Farmer	R	34	5160	Inyo, Kern, San Bernardino, Tulare	5959 S. Mooney, Visalia 93277
Mendoza, Tony....	Elementary School Teacher	D	56	5144	Los Angeles, Orange.....	12501 E. Imperial Hwy., Suite 210, Norwalk 90650
Mullin, Gene	Educator	D	19	2163	San Mateo	1528 S. El Camino Real, Suite 302, San Mateo 94402

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Nakanishi, Alan	Physician	R	10	5175	Amador, El Dorado, Sacramento, San Joaquin	218 W. Pine Street, Lodi 95240
Nava, Pedro	Legislator	D	35	2148	Santa Barbara, Ventura	101 W. Anapamu St., Suite A, Santa Barbara 93101; 201 E. Fourth St., Suite 209A, Oxnard 93030
Niello, Roger	Legislator	R	5	6027	Placer, Sacramento	4811 Chippendale Drive, Suite 501, Sacramento 95841
Núñez, Fabian	Speaker/Full-time Legislator	D	46	219	Los Angeles	320 W. 4th Street, Room 1050, Los Angeles 90013
Parra, Nicole	Legislator	D	30	5155	Fresno, Kern, Kings, Tulare	601 24th Street, Suite A, Bakersfield 93301; 321 N. Douty St., Suite B, Hanford 93230
Plescia, George A.	Legislator	R	75	3141	San Diego	9909 Mira Mesa Blvd., Suite 130, San Diego 92131
Portantino, Anthony	Legislator	D	44	2003	Los Angeles	215 N. Marengo Ave., Suite 115, Pasadena 91101
Price, Jr., Curren D.	Educator/Business Consultant	D	51	2179	Los Angeles	One Manchester Blvd., Suite 601, PO Box 6500, Inglewood 90301
Runner, Sharon	Businesswoman	R	36	5158	Los Angeles, San Bernardino	747 W. Lancaster Blvd., Lancaster 93534; 14343 Civic Drive, Victorville 92392
Ruskin, Ira	Legislator	D	21	3123	San Mateo, Santa Clara	5050 El Camino Real, Suite 117, Los Altos 94022
Salas, Mary	Full-time Legislator	D	79	2137	San Diego	678 Third Avenue, Suite 105, Chula Vista 91910
Saldaña, Lori	Legislator	D	76	5150	San Diego	1557 Columbia St., San Diego 92101
Silva, Jim	Educator/Realtor	R	67	3149	Orange	17011 Beach Blvd., Suite 570, Huntington Beach 92647
Smyth, Cameron	Government/ Public Relations Consultant	R	38	4153	Los Angeles, Ventura	23734 Valencia Blvd., Suite 303, Santa Clarita 91355
Solorio, Jose	Full-time Legislator	D	69	2196	Orange	2400 E. Katella Ave., Suite 640, Anaheim 92806
Soto, Nell	Full-time Legislator	D	61	3091	Los Angeles, San Bernardino	822 N. Euclid Ave., Ontario 91762
Spitzer, Todd	Attorney	R	71	5126	Orange, Riverside	1940 N. Tustin St., Suite 102, Orange 92865
Strickland, Audra	Full-time Legislator	R	37	4208	Los Angeles, Ventura	2659 Townsgate Rd., Suite 236, Westlake Village 91361
Swanson, Sandre R.	Retirement Trustee	D	16	6012	Alameda	1515 Clay St., Suite 2204, Oakland 94612
Torrico, Alberto	Legislator	D	20	3160	Alameda, Santa Clara	39510 Paseo Padre Pky., Suite 280, Fremont 94538
Tran, Van	Legislator	R	68	4130	Orange	1503 S. Coast Drive, Suite 205, Costa Mesa 92626
Villines, Michael N.	Minority Floor Leader/ Legislator	R	29	3104	Fresno, Madera, Tulare	6245 N. Fresno St., Suite 106, Fresno 93710

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Walters, Marian ..	Legislator	R	73	6031	Orange, San Diego ..	30012 Ivy Glenn Drive, Suite 120, Laguna Niguel 92677; 302 N. Coast Hwy., Oceanside 92054
Wolk, Lois	Teacher.....	D	8	3120	Solano, Yolo	555 Mason Street, Suite 275, Vacaville 95688

OFFICERS OF THE ASSEMBLY

Name	Title	Mailing Address
Núñez , Fabian	Speaker.....	320 W. 4th Street, Room 1050, Los Angeles 90013
Lieber, Sally	Speaker pro Tempore	274 Castro St., Suite 202, Mountain View 94041
Bass, Karen	Majority Floor Leader....	5750 Wilshire Blvd., Suite 565, Los Angeles 90036
Villines, Michael	Minority Floor Leader....	6245 N. Fresno St., Suite 106, Fresno 93710
Wilson, E. Dotson	Chief Clerk.....	State Capitol, Room 3196, Sacramento 95814
Pane, Ronald	Sergeant-at-Arms	State Capitol, Room 3171, Sacramento 95814

STATE JUDICIAL DEPARTMENT

SUPREME COURT JUSTICES AND OFFICERS

Terms of Court

Sessions of Court are held at San Francisco, Los Angeles and Sacramento

JUSTICES

Hon. Ronald M. George ..... Chief Justice
Hon. Carlos R. Moreno ..... Associate Justice
Hon. Kathryn M. Werdegar ..... Associate Justice
Hon. Joyce L. Kennard ..... Associate Justice
Hon. Ming W. Chin ..... Associate Justice
Hon. Marvin R. Baxter ..... Associate Justice
Hon. Carol A. Corrigan ..... Associate Justice
Frederick K. Ohlrich ..... Clerk/Administrator

COURTS OF APPEAL

FIRST APPELLATE DISTRICT

DIVISION ONE

Hon. James J. Marchiano ..... Presiding Justice
Hon. Douglas E. Swager ..... Associate Justice
Hon. William D. Stein ..... Associate Justice
Hon. Sandra L. Margulies ..... Associate Justice

DIVISION TWO

Hon. J. Anthony Kline ..... Presiding Justice
Hon. James R. Lambden ..... Associate Justice
Hon. Paul R. Haerle ..... Associate Justice
Hon. James A. Richman ..... Associate Justice

DIVISION THREE

Hon. William R. McGuiness ..... Admin. Presiding Justice
Hon. Joanne C. Parrilli ..... Associate Justice
Hon. Stuart R. Pollak ..... Associate Justice
Hon. Peter Siggins ..... Associate Justice

DIVISION FOUR

Hon. Ignazio J. Ruvolo ..... Presiding Justice
Hon. Timothy A. Reardon ..... Associate Justice
Hon. Patricia K. Sepulveda ..... Associate Justice
Hon. Maria P. Rivera ..... Associate Justice

DIVISION FIVE

Hon. Barbara J.R. Jones ..... Presiding Justice
Hon. Mark B. Simons ..... Associate Justice
Hon. Linda M. Gemello ..... Associate Justice
Vacant ..... Associate Justice
Diana Herbert ..... Clerk/Administrator

350 McAllister Street, San Francisco 94102

SECOND APPELLATE DISTRICT

DIVISION ONE

Hon. Vaino H. Spencer ..... Presiding Justice
Hon. Miriam A. Vogel ..... Associate Justice
Hon. Robert M. Mallano ..... Associate Justice
Hon. Frances Rothschild ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION TWO

Hon. Roger W. Boren ..... Admin. Presiding Justice
Hon. Judith M. Ashmann-Gerst ..... Associate Justice
Hon. Kathryn Doi Todd ..... Associate Justice
Hon. Victoria M. Chavez ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION THREE

Hon. Joan D. Klein ..... Presiding Justice
Hon. Richard D. Aldrich ..... Associate Justice
Hon. Patti S. Kitching ..... Associate Justice
Hon. H. Walter Croskey ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION FOUR

Hon. Norman L. Epstein ..... Presiding Justice
Hon. Thomas L. Willhite, Jr. ..... Associate Justice
Hon. Daniel A. Curry ..... Associate Justice
Vacant ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION FIVE

Hon. Paul Turner ..... Presiding Justice
Hon. Orville A. Armstrong ..... Associate Justice
Hon. Sandy R. Kriegler ..... Associate Justice
Hon. Richard M. Mosk ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION SIX

Hon. Arthur Gilbert ..... Presiding Justice
Hon. Steven Z. Perren ..... Associate Justice
Hon. Kenneth R. Yegan ..... Associate Justice
Hon. Paul H. Coffee ..... Associate Justice

200 East Santa Clara St., Ventura 93001

DIVISION SEVEN

Hon. Dennis M. Perluss ..... Presiding Justice
Hon. Earl Johnson, Jr. ..... Associate Justice
Hon. Fred Woods ..... Associate Justice
Hon. Laurie D. Zelon ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION EIGHT

Hon. Candace D. Cooper ..... Presiding Justice
Hon. Paul Boland ..... Associate Justice
Hon. Laurence D. Rubin ..... Associate Justice
Hon. Madeleine I. Flier ..... Associate Justice
Joseph A. Lane ..... Clerk/Administrator

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

THIRD APPELLATE DISTRICT

Hon. Arthur G. Scotland ..... Admin. Presiding Justice
Hon. Coleman A. Blease ..... Associate Justice
Hon. M. Kathleen Butz ..... Associate Justice
Hon. Rick Sims ..... Associate Justice
Hon. Rodney Davis ..... Associate Justice
Hon. George W. Nicholson ..... Associate Justice
Hon. Vance W. Raye ..... Associate Justice
Hon. Fred K. Morrison ..... Associate Justice
Hon. Tani G. Cantil-Sakauye ..... Associate Justice
Hon. Harry E. Hull Jr. ..... Associate Justice
Hon. Ronald B. Robie ..... Associate Justice
Deena Fawcett ..... Clerk/Administrator

914 Capitol Mall Court, Sacramento 95814

FOURTH APPELLATE DISTRICT

DIVISION ONE

Hon. Judith D. McConnell ..... Admin. Presiding Justice
Hon. Judith L. Haller ..... Associate Justice
Hon. Joan K. Irion ..... Associate Justice
Hon. Alex C. McDonald ..... Associate Justice
Hon. Patricia D. Benke ..... Associate Justice
Hon. Richard D. Huffman ..... Associate Justice
Hon. James A. McIntyre ..... Associate Justice
Hon. Gilbert Nares ..... Associate Justice
Hon. Terry B. O'Rourke ..... Associate Justice
Hon. Cynthia G. Aaron ..... Associate Justice
Stephen M. Kelly ..... Clerk/Administrator

750 B St., Suite 300, San Diego 92101

DIVISION TWO

Hon. Manuel A. Ramirez ..... Presiding Justice
Hon. Barton C. Gaut ..... Senior Justice
Hon. Thomas E. Hollenhorst ..... Associate Justice
Hon. Betty A. Richli ..... Associate Justice
Hon. Art W. McKinster ..... Associate Justice
Hon. Jeffrey King ..... Associate Justice
Vacant ..... Associate Justice

3389 12th St., Riverside 92501

DIVISION THREE

Hon. David G. Sills ..... Presiding Justice
Hon. Richard D. Fybel ..... Associate Justice
Hon. Kathleen E. O'Leary ..... Associate Justice
Hon. Eileen C. Moore ..... Associate Justice
Hon. William F. Rylaarsdam ..... Associate Justice
Hon. William W. Bedsworth ..... Associate Justice
Hon. Richard M. Aronson ..... Associate Justice
Hon. Raymond J. Ikola ..... Associate Justice

925 No. Spurgeon St., Santa Ana 92701

FIFTH APPELLATE DISTRICT

Hon. James A. Ardaiz ..... Admin. Presiding Justice
Hon. Herbert I. Levy ..... Associate Justice
Hon. Dennis A. Cornell ..... Associate Justice
Hon. Nikolas J. Dibiaso ..... Associate Justice
Hon. Steven M. Vartabedian ..... Associate Justice
Hon. Betty L. Dawson ..... Associate Justice
Hon. Thomas A. Harris ..... Associate Justice
Hon. Rebecca A. Wiseman ..... Associate Justice
Hon. Gene M. Gomes ..... Associate Justice
Vacant ..... Associate Justice
Leisa Biggers ..... Clerk/Administrator

2525 Capitol Street, Fresno 93721

SIXTH APPELLATE DISTRICT

Hon. Conrad L. Rushing ..... Admin. Presiding Justice
Hon. Patricia Bamattre-Manoukian ..... Associate Justice
Hon. Franklin D. Elia ..... Associate Justice
Hon. Eugene M. Premo ..... Associate Justice
Hon. Wendy C. Duffy ..... Associate Justice
Hon. Nathan D. Mihara ..... Associate Justice
Hon. Richard J. McAdams ..... Associate Justice
Michael Yerly ..... Clerk/Administrator

333 West Santa Clara Street, Suite 1060, San Jose 95113

PUBLIC UTILITIES COMMISSION

Michael R. Peevey ..... President
Dian Grueneich ..... Commissioner
John Bohn ..... Commissioner
Rachelle Chong ..... Commissioner
Timothy Simon ..... Commissioner
Steve Larson ..... Executive Director

WORKERS' COMPENSATION APPEALS BOARD

Joseph M. Miller ..... Chairperson
Frank M. Brass ..... Member
James C. Cuneo ..... Member
William K. O'Brien ..... Member
Janis Murray ..... Member
Ronnie Caplane ..... Member
Alfonso J. Moresi ..... Member

TABLE OF LAWS ENACTED

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34	—	271	Cedillo
35	—	283	Maldonado and Romero (Coauthors: Assembly Members Benoit, DeVore, Horton, and Maze)
36	—	822	Aanestad (Coauthors: Senators Romero and Lowenthal)
37	—	106	Wiggins (Principal coauthor: Senator Perata) (Principal coauthor: Assembly Member Berg)
38	—	174	Ducheny
39	—	175	Ducheny
40	—	903	Padilla
41	—	957	Torlakson
42	1738	—	Coto
43	—	649	Committee on Judiciary (Senators Corbett (Chair), Ackerman, Harman, Kuehl, and Steinberg)
44	—	641	Corbett (Principal coauthor: Senator Alquist) (Principal coauthor: Assembly Member Beall) (Coauthor: Assembly Member Lieber)
45	—	611	Steinberg
46	—	330	Committee on Human Services (Senators Alquist (Chair), Cogdill, Harman, Romero, and Yee)
47	—	313	Scott
48	—	183	Corbett
49	181	—	Beall (Coauthor: Assembly Member Bass)
50	265	—	Mendoza
51	332	—	DeVore (Coauthors: Assembly Members Duvall, Huff, Mendoza, Silva, Solorio, Spitzer, Tran, and Walters)
52	390	—	Ruskin
53	432	—	Garcia
54	473	—	Adams
55	542	—	Gaines
56	685	—	Karnette
57	775	—	Niello
58	913	—	Niello
59	957	—	Spitzer and Tran (Principal coauthor: Assembly Member Jeffries) (Coauthors: Assembly Members DeVore, Horton, Maze, and Strickland) (Coauthors: Senators Battin and Harman)
60	965	—	Anderson
61	1175	—	Niello
62	1283	—	Laird
63	1287	—	Jeffries
64	1376	—	Berryhill
65	1462	—	Adams
66	1513	—	Niello
67	1525	—	Cook (Coauthor: Assembly Member Portantino)
68	1678	—	De La Torre
69	1698	—	Eng
70	1716	—	Committee on Utilities and Commerce (Levine (Chair), Keene (Vice Chair), Bass, Blakeslee, Davis, Huffman, Jones, Krekorian, Smyth, and Tran)
71	—	100	Ducheny
72	—	125	Harman

TABLE OF LAWS ENACTED—Continued

2007

Ch. No.	A.B. No.	S.B. No.	Author
73	—	196	Machado
74	—	221	Runner
75	—	249	Negrete McLeod
76	—	293	Ackerman (Coauthor: Assembly Member Sharon Runner)
77	—	317	Denham
78	—	357	Cox
79	—	363	Simitian
80	—	414	Corbett
81	—	715	Lowenthal
82	—	796	Runner
83	—	969	Aanestad
84	151	—	Berryhill
85	243	—	Nakanishi
86	1255	—	Parra (Coauthors: Assembly Members Arambula and Villines) (Coauthor: Senator Cogdill)
87	—	50	Torlakson
88	—	102	Migden
89	—	279	Yee
90	—	437	Negrete McLeod
91	—	500	Corbett
92	—	519	Committee on Governmental Organization (Senators Florez (Chair), Battin, Denham, Maldonado, Negrete McLeod, Vincent, Wiggins, Wyland, and Yee)
93	—	525	Lowenthal
94	—	699	Ducheny
95	—	706	Runner (Principal coauthor: Assembly Member Sharon Runner)
96	—	744	Runner
97	—	813	Wiggins (Coauthor: Assembly Member Berg)
98	—	819	Hollingsworth and Kehoe (Coauthor: Senator Harman) (Coauthor: Assembly Member Caballero)
99	—	1037	Committee on Banking, Finance and Insurance (Machado (chair), Correa, Cox, Florez, Hollingsworth, Lowenthal, Margett, Romero, Runner, Scott, Wiggins)
100	—	1038	Committee on Banking, Finance and Insurance (Senators Machado (Chair), Correa, Cox, Florez, Hollingsworth, Lowenthal, Margett, Romero, Runner, Scott, and Wiggins)
101	—	998	Cox
102	—	1041	Committee on Veterans Affairs (Wyland (Chair), Correa, Denham, Negrete McLeod, and Wiggins)
103	61	—	Nava
104	104	—	Solorio (Coauthors: Assembly Members Anderson, Caballero, Davis, DeSaulnier, DeVore, Emmerson, Huffman, Karnette, Krekorian, Leno, Lieu, Ma, Nava, Sharon Runner, and Spitzer)
105	361	—	Ma
106	470	—	DeSaulnier
107	711	—	Emmerson
108	714	—	Maze and Bass
109	745	—	Silva
110	905	—	Arambula (Coauthors: Assembly Members Beall and Parra)
111	924	—	Emmerson (Coauthors: Assembly Members DeVore, Garrick, and Maze) (Coauthors: Senators Battin and Cox)
112	946	—	Krekorian
113	1126	—	Eng
114	1208	—	Silva (Coauthor: Assembly Member Jones)
115	1211	—	Price
116	1326	—	Houston
117	1364	—	Benoit
118	1374	—	Hernandez
119	1495	—	La Malfa
120	1514	—	Maze
121	1575	—	Richardson
122	1639	—	Duvall
123	1715	—	Committee on Utilities and Commerce (Levine (Chair), Keene (Vice Chair), Bass, Blakeslee, Davis, Huffman, Jones, Krekorian, Smyth, and Tran)
124	1718	—	Committee on Agriculture (Parra (Chair), La Malfa (Vice Chair), Berryhill, Dymally, Fuller, Galgiani, Jones and Mendoza)
125	1732	—	Committee on Elections and Redistricting
126	—	484	Lowenthal (Principal coauthor: Assembly Member De La Torre)
127	—	548	Hollingsworth
128	222	—	Emmerson (Coauthor: Assembly Member Benoit)
129	257	—	Anderson (Coauthor: Assembly Member Lieu)
130	299	—	Tran
131	323	—	Evans (Principal coauthor: Senator Wiggins) (Coauthors: Assembly Members Aghazarian, Benoit, Berg, Blakeslee, DeVore, Dymally, Horton, Huff, Huffman, Maze, Nava, Ruskin, Torrico, and Wolk) (Coauthor: Senator Hollingsworth)
132	367	—	De Leon
133	469	—	Horton
134	522	—	Duvall
135	647	—	Salas
136	670	—	Spitzer (Coauthors: Assembly Members Garrick and Maze)
137	686	—	Gaines
138	796	—	Committee on Insurance (Coto (Chair), Benoit (Vice Chair), Berg, Carter, De Leon, Duvall, and Parra)
139	805	—	Galgiani
140	840	—	Emmerson
141	861	—	Tran
142	933	—	Jeffries
143	1023	—	DeSaulnier
144	1047	—	Houston
145	1238	—	Plescia
146	1264	—	Eng
147	1362	—	Smyth
148	1518	—	Committee on Banking and Finance (Lieu (Chair), Gaines (Vice Chair), Coto, Mendoza, Parra, Swanson, Torrico, Walters, and Wolk)
149	1598	—	Price
150	—	124	Ducheny

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Ch. No.	A.B. No.	S.B. No.	Author
151	—	234	Corbett
152	—	403	Harman
153	—	433	Harman
154	—	630	Aanestad (Principal coauthor: Assembly Member Arambula) (Coauthor: Senator Cogdill) (Coauthors: Assembly Members Jeffries and La Malfa)
155	—	921	Vincent
156	—	1044	Committee on Revenue and Taxation (Oropeza (Chair), Alquist, Cogdill, Harman, Machado, Runner, Scott, and Wiggins)
157	—	1050	Committee on Natural Resources and Water (Senators Steinberg (Chair), Cogdill, Hollingsworth, Kehoe, Kuehl, Machado, Margett, and Migden)
158	139	—	Bass (Coauthor: Assembly Member Maze)
159	341	—	Spitzer
160	369	—	Solorio (Coauthors: Assembly Members Bass, Beall, Benoit, Berryhill, DeVore, Dymally, Gaines, Galgiani, Horton, Maze, Spitzer, and Villines)
161	645	—	Feuer (Coauthor: Assembly Member Leno)
162	774	—	Houston
163	854	—	Keene
164	895	—	Aghazarian
165	1019	—	Blakeslee (Coauthor: Assembly Member Nava)
166	1153	—	Garcia
167	1262	—	Caballero
168	—	198	Battin (Coauthors: Assembly Members Benoit and Garcia)
169	—	230	Yee (Coauthor: Assembly Member Ma)
170	—	273	Ackerman (Principal coauthor: Senator Ducheny)
171	—	77	Ducheny
172	—	78	Ducheny
173	—	79	Committee on Budget and Fiscal Review
174	—	80	Committee on Budget and Fiscal Review
175	—	81	Committee on Budget and Fiscal Review
176	—	82	Committee on Budget and Fiscal Review
177	—	84	Committee on Budget and Fiscal Review
178	—	85	Committee on Budget and Fiscal Review
179	—	86	Committee on Budget and Fiscal Review
180	—	87	Committee on Budget and Fiscal Review
181	—	88	Committee on Budget and Fiscal Review
182	—	89	Committee on Budget and Fiscal Review
183	—	90	Committee on Budget and Fiscal Review
184	—	91	Committee on Budget and Fiscal Review
185	—	97	Dutton
186	199	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
187	201	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
188	203	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
189	—	644	Correa, Ackerman, Harman, Margett, and Wyland (Coauthors: Assembly Members DeVore, Duvall, Huff, Silva, Solorio, Spitzer, and Tran)
190	—	556	Wiggins
191	—	112	Scott (Coauthors: Senators Romero and Vincent)
192	—	659	Calderon
193	—	762	Cox (Coauthor: Assembly Member Berryhill)
194	839	—	Emmerson
195	1042	—	Spitzer (Coauthors: Assembly Members Benoit, Garrick, and Silva) (Coauthors: Senators Cogdill, Correa, Harman, and Wyland)
196	—	192	Ducheny
197	—	296	Dutton
198	—	366	Aanestad
199	—	513	Committee on Elections, Reapportionment and Constitutional Amendments (Senators Calderon (Chair), Battin, Cogdill, Migden, and Oropeza)
200	—	684	Cox
201	1048	—	Richardson
202	1286	—	Richardson
203	—	246	Margett (Coauthor: Assembly Member Huff)
204	—	278	Lowenthal
205	—	353	Kuehl (Principal coauthor: Senator Migden) (Principal coauthor: Assembly Member Leno) (Coauthor: Senator Romero) (Coauthors: Assembly Members DeSaulnier, Galgiani, and Ma)
206	—	407	Romero (Coauthors: Assembly Members Beall, Dymally, and Horton)
207	—	443	Migden
208	—	542	Romero
209	—	558	Cogdill
210	—	620	Correa (Coauthor: Assembly Member Horton)
211	—	629	Correa
212	—	639	Harman
213	490	—	Hancock
214	—	33	Simitian (Principal coauthor: Assembly Member Garcia) (Coauthors: Assembly Members Beall, Horton, Jeffries, Krekorian, and Maze)
215	—	20	Torlakson (Principal coauthors: Assembly Members Nunez and Laird) (Coauthors: Assembly Members Leno and Portantino)
216	—	142	Committee on Local Government (Senators Negrete McLeod (chair), Cox, Harman, Kehoe, and Machado)
217	—	143	Committee on Local Government (Senators Negrete McLeod (chair), Cox, Harman, Kehoe, and Machado)
218	—	910	Scott
219	305	—	Ma
220	556	—	Huff
221	776	—	Aghazarian
222	—	38	Battin
223	—	114	Florez and Hollingsworth (Principal coauthor: Senator Ducheny) (Principal coauthor: Assembly Member

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Ch. No.	A.B. No.	S.B. No.	Author
			Arambula) (Coauthors: Senators Alquist and Cogdill)
224	62	—	Nava (Coauthors: Assembly Members Benoit, DeVore, Gaines, Horton, Jeffries, Spitzer, and Strickland) (Coauthors: Senators Cox, Hollingsworth, and Runner)
225	297	—	Maze (Coauthors: Assembly Members Aghazarian, Arambula, Berryhill, Blakeslee, Caballero, Fuller, Gaines, Galgiani, Garcia, Keene, La Malfa, Nakanishi, Parra, Plescia, Salas, Strickland, and Villines)
226	—	941	Padilla and Correa
227	1212	—	Nunez (Coauthors: Senators Correa and Padilla)
228	—	943	Machado
229	188	—	Aghazarian (Coauthor: Senator Kehoe)
230	244	—	Nakanishi
231	349	—	Salas
232	478	—	Wolk
233	485	—	Solorio
234	603	—	Price (Coauthor: Assembly Member Villines) (Coauthor: Senator Corbett)
235	634	—	Charles Calderon
236	691	—	Silva
237	804	—	Huff
238	897	—	Houston
239	918	—	Torrico
240	936	—	Committee on Business and Professions (Eng (Chair), Emmerson (Vice Chair), Bass, Carter, Hayashi, Hernandez, Horton, Maze, Price, and Torrico)
241	1448	—	Niello
242	1508	—	Lieu
243	1686	—	Leno
244	1744	—	Committee on Local Government (Caballero (Chair), Houston (Vice Chair), De La Torre, Lieber, Saldana, Smyth, and Soto)
245	—	99	Committee on Budget and Fiscal Review
246	—	108	Wiggins
247	—	415	Harman
248	—	473	Cox
249	—	523	Yee
250	—	528	Aanestad
251	—	718	Scott
252	—	959	Romero and Runner (Coauthor: Senator Margett)
253	—	1046	Committee on Environmental Quality (Senators Simitian (Chair), Aanestad, Florez, Kuehl, Lowenthal, Runner, and Steinberg)
254	—	1051	Committee on Natural Resources and Water (Senators Steinberg (Chair), Cogdill, Hollingsworth, Kehoe, Kuehl, Machado, Margett, and Migden)
255	384	—	Portantino and Galgiani (Principal coauthors: Assembly Members Garcia and Leno) (Coauthors: Assembly Members Adams, Arambula, Beall, Benoit, Berryhill, Caballero, Carter, Cook, Davis, DeSaulnier, DeVore, Emmerson, Hernandez, Horton, Huffman, Jeffries, Karnette, Krekorian, Lieu, Ma, Mendoza, Mullin, Nava, Sharon Runner, Ruskin, Salas, Silva, Smyth, Solorio, Soto, Strickland, Swanson, Torrico, Walters, and Wolk) (Coauthors: Senators Alquist, Corbett, Denham, Maldonado, Negrete McLeod, Torlakson, Wiggins, Wyland, and Yee)
256	—	431	Aanestad and Wiggins
257	191	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
258	112	—	Wolk (Principal coauthors: Assembly Members Evans, Houston, and Nakanishi) (Principal coauthor: Senator Wiggins) (Coauthor: Senator Torlakson)
259	67	—	Dymally
260	123	—	Nunez
261	195	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
262	269	—	Eng (Coauthors: Assembly Members Davis, Dymally, and Laird)
263	310	—	Silva
264	315	—	Berg
265	381	—	Galgiani (Coauthor: Assembly Member Fuentes)
266	417	—	Blakeslee and Nava
267	472	—	Committee on Agriculture (Parra (Chair), La Malfa (Vice Chair), Berryhill, Dymally, Fuller, Galgiani, Jones, and Mendoza)
268	500	—	Lieu
269	622	—	Mullin
270	720	—	De Leon
271	797	—	Coto
272	798	—	Committee on Insurance (Coto (Chair), Benoit (Vice Chair), Berg, Carter, De Leon, Duvall, Garrick, and Parra)
273	801	—	Walters (Coauthor: Assembly Member Solorio)
274	929	—	Sharon Runner (Coauthor: Senator Lowenthal)
275	937	—	Committee on Business and Professions (Eng (Chair), Emmerson (Vice Chair), Bass, Carter, Hayashi, Hernandez, Horton, Maze, Price, and Torrico)
276	986	—	Eng (Coauthor: Assembly Member Hernandez)
277	1020	—	Sharon Runner
278	1080	—	Mullin
279	1144	—	Maze
280	1260	—	Caballero
281	1360	—	Anderson (Coauthors: Assembly Members DeVore and Ma)
282	1437	—	Aghazarian (Principal coauthor: Assembly Member Lieu)
283	1441	—	Garrick (Coauthor: Assembly Member Plescia)
284	1702	—	Blakeslee
285	1729	—	Committee on Water, Parks and Wildlife (Wolk (Chair), Maze (Vice Chair),

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Ch. No.	A.B. No.	S.B. No.	Author
			Caballero, Huffman, Lieu, Mullin, Nava, and Salas)
286	1731	—	Committee on Elections and Redistricting
287	—	10	Kehoe (Principal coauthor: Assembly Member Plescia) (Coauthors: Senators Ducheny and Hollingsworth) (Coauthors: Assembly Members Salas and Saldana)
288	—	104	Machado (Principal coauthor: Assembly Member Lieber)
289	—	116	Maldonado (Principal coauthor: Assembly Member Parra) (Coauthors: Senators Cedillo, Cogdill, Correa, Denham, and Florez) (Coauthors: Assembly Members Berryhill, Dymally, Maze, and Salas)
290	—	134	Cedillo
291	—	223	Machado
292	—	232	Ducheny and Florez
293	—	282	Cox
294	—	289	Vincent
295	—	295	Cogdill
296	—	319	Wiggins (Coauthors: Assembly Members Berg and Evans)
297	—	339	Scott
298	—	343	Negrete McLeod (Coauthor: Assembly Member Jones)
299	—	354	Margett
300	—	370	Kuehl
301	—	385	Machado (Principal coauthor: Assembly Member Lieu)
302	—	425	Margett
303	—	430	Machado
304	—	733	Torlakson (Coauthor: Assembly Member Brownley)
305	—	768	Corbett (Coauthor: Senator Calderon)
306	—	788	Cogdill
307	—	795	Yee
308	—	916	Yee
309	—	1043	Committee on Revenue and Taxation (Oropeza (Chair), Alquist, Cogdill, Harman, Machado, Runner, Scott, and Wiggins)
310	63	—	Emmerson (Coauthor: Senator Negrete McLeod)
311	136	—	Emmerson (Coauthors: Assembly Members Benoit, Carter, Cook, Garcia, Horton, Huff, Jeffries, Maze, Sharon Runner, Soto, Spitzer, and Strickland) (Coauthors: Senators Dutton and Hollingsworth)
312	192	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
313	193	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
314	196	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
315	246	—	Torrico
316	452	—	Arambula (Coauthor: Assembly Member Adams)
317	538	—	Emmerson
318	554	—	Hernandez (Principal coauthor: Senator Ridley-Thomas)
319	566	—	Plescia
320	753	—	Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico)
321	754	—	Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico)
322	756	—	Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico)
323	757	—	Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico)
324	771	—	De Leon
325	829	—	Duvall
326	1008	—	Charles Calderon
327	1124	—	Karnette
328	1187	—	DeSaulnier (Principal coauthor: Senator Cogdill) (Coauthors: Assembly Members Huffman, Krekorian, and Ruskin) (Coauthor: Senator Cox)
329	1222	—	Laird and Silva
330	1246	—	Blakeslee
331	1288	—	Hayashi
332	1316	—	Bass
333	1317	—	Mullin
334	1368	—	Mullin
335	1401	—	Aghazarian
336	1533	—	Committee on Banking and Finance (Lieu (Chair), Coto, Mendoza, Parra, Swanson, Torrico, and Wolk)
337	1581	—	Fuller
338	1717	—	Committee on Agriculture (Parra (Chair), Dymally, Galgiani, Jones and Mendoza)
339	1735	—	Committee on Agriculture (Parra (Chair), La Malfa (Vice Chair), Berryhill, Dymally, Fuller, Galgiani, Jones, and Mendoza)
340	1745	—	Committee on Revenue and Taxation (Charles Calderon (Chair), Arambula, Eng, Feuer, and Hayashi)
341	1747	—	Committee on Revenue and Taxation (Charles Calderon (Chair), Arambula, Eng, Feuer, and Hayashi)
342	1748	—	Committee on Revenue and Taxation (Charles Calderon (Chair), Arambula, Eng, Feuer, and Hayashi)
343	—	144	Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado)
344	—	235	Negrete McLeod
345	—	280	Scott
346	—	281	Maldonado and Denham
347	—	350	Runner
348	—	512	Committee on Elections, Reapportionment and Constitutional Amendments

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2007

Ch. No.	A.B. No.	S.B. No.	Author
			(Senators Calderon (Chair), Battin, Cogdill, Migden, and Oropeza)
349	—	520	Committee on Governmental Organization (Senators Florez (Chair), Battin, Denham, Maldonado, Negrete McLeod, Vincent, Wiggins, Wyland, and Yee)
350	—	574	Negrete McLeod (Coauthor: Senator Yee)
351	—	770	Cogdill
352	—	855	Ridley-Thomas
353	—	901	Padilla (Coauthors: Senators Wiggins and Wyland) (Coauthor: Assembly Member Hernandez)
354	—	1047	Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Corbett, Denham, Florez, Harman, Simitian, and Yee)
355	—	14	Negrete McLeod (Coauthors: Assembly Members DeVore, Dymally, and Strickland)
356	—	272	Runner
357	—	386	Cogdill
358	7	—	Lieu and Saldana (Coauthors: Assembly Members Beall, Horton, Huff, Jeffries, Laird, and Wolk)
359	223	—	Sharon Runner
360	282	—	Cook (Coauthors: Assembly Members Anderson, Benoit, DeVore, Garrick, Horton, Jeffries, Lieu, and Maze) (Coauthors: Senators Battin, Cogdill, Correa, Negrete McLeod, Wiggins, and Wyland)
361	392	—	Lieu (Coauthor: Assembly Member Krekorian)
362	950	—	Salas
363	1528	—	Committee on Banking and Finance (Lieu (Chair), Gaines (Vice Chair), Coto, Mendoza, Parra, Swanson, Torrico, and Wolk)
364	—	5	Machado (Principal coauthor: Senator Florez) (Principal coauthor: Assembly Member Wolk) (Coauthor: Senator Steinberg) (Coauthor: Assembly Member Laird)
365	—	17	Florez
366	5	—	Wolk (Principal coauthor: Assembly Member Jones) (Principal coauthors: Senators Florez, Machado, and Steinberg)
367	70	—	Jones
368	156	—	Laird
369	162	—	Wolk
370	740	—	Laird
371	800	—	Lieu, Brownley, and Krekorian (Coauthors: Assembly Members Beall, Karnette, and Mendoza)
372	1056	—	Leno and Huffman
373	1220	—	Laird
374	1280	—	Laird
375	1396	—	Laird
376	3	—	Bass
377	101	—	Ma
378	106	—	Berg (Coauthors: Assembly Members Bass, Beall, DeVore, Hancock, Hayashi, Horton, Krekorian, Lieber, Ma, Salas, and Wolk)
379	126	—	Beall (Coauthor: Assembly Member Dymally) (Coauthor: Senator Romero)
380	187	—	Nakanishi (Coauthors: Assembly Members DeVore, Jeffries, and Wolk) (Coauthors: Senators Harman and Wyland)
381	198	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
382	216	—	Bass (Coauthor: Senator Steinberg)
383	227	—	Beall
384	321	—	Nava
385	328	—	Salas
386	329	—	Nakanishi (Coauthors: Assembly Members Arambula, Fuller, and Maze) (Coauthors: Senators Cogdill and Ridley-Thomas)
387	463	—	Huffman
388	403	—	Tran
389	468	—	Ruskin
390	475	—	Emmerson
391	569	—	Portantino
392	587	—	Karnette (Principal coauthor: Assembly Member Nunez) (Coauthors: Assembly Members Galgiani, Mendoza, Nava, Richardson, Salas, Saldana, Torrico, and Tran) (Coauthor: Senator Kehoe)
393	673	—	Hayashi
394	679	—	Benoit
395	702	—	Portantino (Principal coauthor: Assembly Member Levine) (Coauthors: Assembly Members Davis, Jeffries, Krekorian, Plescia, and Swanson)
396	758	—	Plescia and Portantino
397	836	—	Bass
398	868	—	Davis
399	886	—	Sharon Runner
400	903	—	Houston and La Malfa
401	920	—	Brownley
402	935	—	Committee on Business and Professions (Eng (Chair), Emmerson (Vice Chair), Bass, Carter, Hayashi, Hernandez, Horton, Maze, Price, and Torrico)
403	976	—	Charles Calderon (Coauthors: Assembly Members Arambula, Coto, De Leon, Hernandez, Mendoza, Saldana, Solorio, Soto, and Torrico) (Coauthors: Senators Cedillo and Padilla)
404	1010	—	Hernandez (Coauthors: Assembly Members Adams, Charles Calderon, Eng, Huff, Huffman, Portantino, and Soto) (Coauthors: Senators Cedillo, Romero, and Scott)
405	1079	—	Richardson (Principal coauthor: Senator Romero)
406	1092	—	Emmerson (Coauthors: Assembly Members Karnette and Levine)
407	1139	—	Emmerson
408	1199	—	Richardson
409	1229	—	Carter (Coauthor: Senator Ridley-Thomas)
410	1308	—	Torrico
411	1322	—	Duvall
412	1515	—	La Malfa

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413	1531	—	DeSaulnier
414	1564	—	Nava (Coauthor: Assembly Member Richardson)
415	1571	—	DeSaulnier
416	1580	—	La Malfa
417	1616	—	Garrick (Coauthor: Assembly Member Jeffries)
418	1642	—	Hancock
419	1683	—	Wolk
420	1705	—	Niello
421	1713	—	Committee on Agriculture (Parra (Chair), La Malfa (Vice Chair), Berryhill, Fuller, Galgiani, Jones, and Mendoza) (Coauthor: Assembly Member Dymally)
422	1723	—	Committee on Judiciary (Jones (Chair), Evans, Feuer, Krekorian, Laird, Levine, and Lieber)
423	1733	—	Committee on Elections and Redistricting
424	1749	—	Dymally
425	—	7	Oropeza (Principal coauthor: Senator Padilla) (Coauthor: Senator Cedillo) (Coauthors: Assembly Members Coto, Hernandez, Mendoza, Saldana, and Soto)
426	—	105	Migden
427	—	161	Margett
428	—	162	Negrete McLeod (Principal coauthor: Assembly Member Caballero) (Coauthors: Assembly Members Carter and Dymally)
429	—	211	Cox
430	—	264	Alquist
431	—	316	Yee
432	—	384	Cogdill
433	—	387	Alquist
434	—	516	Aanestad
435	—	539	Margett
436	—	698	Torlakson
437	—	729	Padilla
438	—	730	Florez
439	—	771	Kuehl (Principal coauthor: Assembly Member Jones) (Coauthor: Assembly Member Tran)
440	—	773	Wiggins
441	—	892	Corbett
442	—	956	Correa
443	—	379	Denham
444	1736	—	Committee on Governmental Organization (Torrico (Chair), De Leon, Evans, Levine, Mendoza, Portantino, Price, Richardson, and Soto)
445	1585	—	Lieber (Coauthor: Assembly Member Saldana) (Coauthor: Senator Torlakson)
446	—	582	Corbett (Coauthor: Senator Alquist) (Coauthors: Assembly Members Caballero and Jones)
447	—	868	Ridley-Thomas
448	358	—	Blakeslee
449	—	1045	Committee on Revenue and Taxation (Oropeza (Chair), Alquist, Cogdill, Harman, Machado, Runner, Scott, and Wiggins)
450	402	—	Ma
451	1492	—	Laird (Coauthor: Assembly Member Beall)
452	1464	—	Benoit
453	1589	—	Duvall
454	1663	—	Evans (Coauthor: Senator Romero)
455	—	594	Romero (Coauthors: Assembly Members Beall, Dymally, Huffman, Jeffries, and Karnette)
456	1013	—	Krekorian (Coauthor: Assembly Member Jones)
457	1291	—	Mendoza (Principal coauthor: Senator Alquist) (Coauthors: Assembly Members Caballero, DeSaulnier, and Lieu) (Coauthors: Senators Ridley-Thomas, Romero, and Scott)
458	1300	—	Price
459	1381	—	Nunez (Coauthors: Assembly Members Bass, Caballero, Coto, DeSaulnier, Feuer, Hancock, Jones, Ruskin, Salas, Solorio, and Swanson) (Coauthor: Senator Romero)
460	—	22	Migden (Principal coauthor: Assembly Member Leno)
461	—	166	Negrete McLeod
462	—	184	Alquist and Correa
463	—	418	Migden
464	340	—	Hancock (Coauthor: Senator Alquist)
465	1331	—	Evans
466	1453	—	Soto (Coauthor: Senator Alquist)
467	1512	—	Torrico (Coauthor: Assembly Member Berg)
468	—	39	Migden (Coauthor: Senator Alquist)
469	—	785	Steinberg (Principal coauthor: Assembly Member Lieber) (Coauthors: Senators Calderon and Correa) (Coauthors: Assembly Members Bass, Berg, Dymally, Leno, and Maze)
470	—	472	Corbett (Coauthors: Assembly Members Berg, Karnette, and Ma)
471	—	614	Simitian (Coauthors: Senators Alquist and Torlakson)
472	—	633	Alquist
473	—	645	Correa (Principal coauthor: Assembly Member Tran)
474	—	686	Corbett
475	—	720	Kuehl
476	—	734	Torlakson
477	—	767	Ridley-Thomas
478	—	783	Torlakson
479	—	793	Harman
480	—	812	Correa
481	—	854	Ridley-Thomas (Coauthor: Senator Calderon) (Coauthors: Assembly Members Price and Saldana)
482	—	929	Cogdill
483	—	1039	Committee on Health (Senators Kuehl (Chair), Aanestad, Alquist, Cedillo, Cox, Maldonado, Negrete McLeod, Ridley-Thomas, Steinberg, Wyland, and Yee)
484	15	—	Houston (Coauthor: Senator Torlakson)
485	18	—	Blakeslee
486	28	—	Huffman (Coauthors: Assembly Members Adams, Benoit, Caballero, Davis, DeSaulnier, DeVore, Horton, Krekorian, Laird, Lieu, Ma, Mendoza, Mullin, Portantino, Solorio, and Sharon Runner) (Coauthor: Senator Romero)

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487	119	—	Price (Coauthor: Assembly Member Adams)
488	176	—	Jones (Principal coauthor: Assembly Member Beall)
489	194	—	Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, Dymally, Feuer, Hayashi, Hernandez, Jones, Mullin, Ruskin, Swanson, and Wolk)
490	263	—	Arambula (Coauthor: Assembly Member Villines) (Coauthors: Senators Cogdill and Florez)
491	288	—	Price (Coauthors: Assembly Members Adams, Beall, Dymally, Jeffries, Krekorian, Mendoza, and Tran) (Coauthor: Senator Scott)
492	292	—	Blakeslee
493	356	—	Mendoza
494	383	—	Tran
495	404	—	Ruskin
496	434	—	Silva
497	462	—	Villines (Coauthors: Assembly Members Galgiani, Horton, Lieber, and Solorio)
498	574	—	Torrico (Coauthor: Senator Kehoe)
499	715	—	Laird (Coauthors: Assembly Members Hancock, Huffman, Mullin, and Wolk)
500	915	—	Hernandez
501	917	—	Salas
502	921	—	Krekorian
503	1055	—	Blakeslee
504	1063	—	Evans
505	1090	—	Spitzer (Principal coauthor: Assembly Member Jeffries) (Coauthors: Assembly Members DeVore, Horton, Huffman, and Maze)
506	1178	—	Hernandez
507	1224	—	Hernandez
508	1243	—	Karnette (Coauthors: Assembly Members Adams and Wolk)
509	1273	—	Leno
510	1274	—	Leno
511	1307	—	Krekorian
512	1402	—	Evans
513	1432	—	Soto
514	1612	—	Nava (Principal coauthor: Assembly Member DeSaulnier)
515	1734	—	Committee on Elections and Redistricting
516	34	—	Portantino (Principal coauthor: Assembly Member Leno) (Coauthors: Assembly Members Beall, Berg, De Leon, Dymally, Eng, Garcia, Hancock, Horton, Huffman, Jeffries, Lieu, Mullin, Nakanishi, and Wolk) (Coauthor: Senator Romero)
517	—	962	Migden
518	—	474	Kuehl (Principal coauthor: Senator Ridley-Thomas) (Coauthor: Senator Romero) (Coauthors: Assembly Members Dymally, Feuer, and Krekorian)
519	—	13	Wyland (Coauthors: Senators Cogdill, Denham, Dutton, Harman, Hollingsworth, Maldonado, and Wiggins) (Coauthors: Assembly Members Bass, Cook, Fuller, Garrick, Horton, Jeffries, Maze, Smyth, and Strickland)
520	—	52	Scott (Coauthor: Senator Romero)
521	—	95	Maldonado and Ducheny
522	—	139	Scott (Coauthors: Senators Alquist, Padilla, and Wyland) (Coauthors: Assembly Members Beall, Galgiani, and Horton)
523	—	190	Yee (Principal coauthors: Senators Maldonado and Romero) (Coauthors: Senators Alquist, Ashburn, and Perata) (Coauthors: Assembly Members DeVore, Jeffries, Maze, Mendoza, and Portantino)
524	—	345	Aanestad
525	177	—	Bass (Principal coauthor: Senator Romero) (Coauthors: Assembly Members Davis, De Leon, Dymally, Krekorian, Nunez, and Portantino) (Coauthors: Senators Calderon, Cedillo, and Negrete McLeod)
526	347	—	Nava
527	428	—	Carter (Principal coauthor: Assembly Member Bass) (Coauthors: Assembly Members Dymally and Price) (Coauthor: Senator Romero)
528	580	—	Smyth
529	597	—	Committee on Education (Mullin (Chair), Garrick, Brownley, Coto, Hancock, Karnette, Nakanishi, Huff, Solorio, Eng)
530	1061	—	Mullin (Principal coauthors: Senators Romero and Scott)
531	662	—	Ruskin
532	1560	—	Huffman (Coauthors: Assembly Members Beall, Eng, Krekorian, and Mendoza) (Coauthor: Senator Kuehl)
533	1103	—	Saldana
534	1109	—	Huffman and Feuer (Principal coauthor: Assembly Member Leno) (Coauthors: Assembly Members Berg, Caballero, DeSaulnier, Hancock, Hernandez, Krekorian, Laird, Lieber, Portantino, and Wolk) (Coauthor: Senator Wiggins)
535	1481	—	De La Torre (Principal coauthor: Assembly Member Krekorian)
536	1470	—	Huffman (Principal coauthor: Assembly Member Leno) (Coauthors: Assembly Members Beall, Carter, DeSaulnier, Krekorian, Laird, Wolk, and Saldana) (Coauthors: Senators Corbett, Florez, Kuehl, Romero, Scott, and Wiggins)
537	1406	—	Huffman (Coauthors: Assembly Members Beall, Benoit, and Berryhill)
538	—	362	Simitian
539	—	428	Dutton (Coauthor: Assembly Member Emmerson)
540	—	538	Battin
541	—	742	Steinberg (Coauthor: Assembly Member Wolk)
542	—	966	Simitian and Kuehl (Principal coauthor: Assembly Member Parra) (Coauthor: Assembly Member Huffman)
543	339	—	Cook
544	752	—	Dymally
545	1397	—	Soto

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546	1426	—	Wolk
547	1473	—	Feuer
548	1568	—	Berg
549	446	—	Soto
550	682	—	Berg, Garcia, and Huffman (Coauthors: Assembly Members Beall and Laird)
551	738	—	Strickland
552	1687	—	Brownley
553	1727	—	Committee on Judiciary (Jones (Chair), Evans, Feuer, Krekorian, Laird, Levine, and Lieber)
554	—	193	Scott
555	—	559	Kehoe
556	—	568	Wiggins
557	—	589	Correa (Coauthor: Senator Alquist) (Coauthors: Assembly Members Laird and Lieber)
558	—	599	Negrete McLeod (Coauthors: Senators Cedillo, Correa, Ducheny, Romero, and Wyland) (Coauthors: Assembly Members Beall, Carter, Cook, DeVore, Salas, Saldana, and Wolk)
559	—	667	Hollingsworth (Coauthor: Assembly Member Jeffries)
560	—	690	Calderon
561	—	753	Correa (Coauthors: Senators Alquist and Padilla)
562	—	829	Wyland
563	—	839	Calderon
564	—	883	Calderon (Principal coauthor: Assembly Member Fuller)
565	298	—	Maze (Coauthors: Assembly Members Bass, Beall, Benoit, DeVore, Gaines, Jeffries, Lieber, Sharon Runner, and Silva)
566	394	—	Levine
567	102	—	Ma (Coauthors: Assembly Members Beall and Feuer) (Coauthor: Senator Romero)
568	14	—	Laird (Coauthors: Assembly Members Hancock, Leno, Lieber, and Saldana) (Coauthors: Senators Kehoe and Kuehl)
569	—	777	Kuehl (Coauthor: Assembly Member Jones)
570	821	—	Nava (Coauthors: Assembly Members Eng, Huffman, Levine, Salas, and Saldana)
571	1172	—	Sharon Runner and Spitzer
572	1471	—	Feuer (Principal coauthor: Assembly Member DeSaulnier) (Coauthors: Senators Cedillo, Perata, Romero, and Scott)
573	1509	—	Spitzer (Principal coauthor: Senator Alquist)
574	1548	—	Solorio (Coauthors: Assembly Members Beall, DeVore, Salas, and Wolk)
575	—	220	Corbett (Principal coauthor: Assembly Member Salas)
576	—	880	Calderon (Coauthors: Senators Cedillo, Cogdill, and Hollingsworth)
577	1750	—	Committee on Health (Dymally (Chair), Bass, Berg, De Leon, Gaines, Hancock, Hayashi, Hernandez, Huff, Lieber, Ma, and Salas) (Coauthor: Assembly Member Jones)
578	—	449	Aanestad
579	—	172	Alquist (Principal coauthor: Assembly Member Solorio)
580	—	776	Vincent
581	—	340	Ackerman
582	289	—	Spitzer
583	—	703	Ducheny
584	—	233	Cox (Principal coauthor: Assembly Member Niello)
585	—	416	Ashburn
586	234	—	Eng
587	—	1049	Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Corbett, Denham, Florez, Harman, Simitian, and Yee)
588	—	1048	Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Corbett, Denham, Florez, Harman, Simitian, and Yee)
589	98	—	Niello
590	105	—	Lieu (Coauthor: Assembly Member Emmerson)
591	220	—	Bass (Principal coauthor: Assembly Member Solorio)
592	233	—	Jones
593	236	—	Lieu, DeSaulnier, and Huffman (Principal coauthor: Senator Florez) (Coauthors: Assembly Members Krekorian, Mendoza, Portantino, and Ruskin) (Coauthor: Senator Wiggins)
594	241	—	Price
595	338	—	Coto (Principal coauthor: Assembly Member Benoit)
596	382	—	Committee on Housing and Community Development (Saldana (Chair), Garcia (Vice Chair), Bass, Hancock, Mullin, Sharon Runner, and Swanson)
597	422	—	Hancock
598	532	—	Wolk
599	607	—	Brownley (Coauthor: Assembly Member Hancock)
600	609	—	Eng (Coauthors: Assembly Members Beall, Huffman, Laird, and Torrico)
601	610	—	Price
602	629	—	Brownley
603	641	—	Torrico
604	646	—	Wolk
605	649	—	Ma (Coauthor: Assembly Member Price)
606	650	—	Lieu and Jones
607	668	—	Portantino (Coauthors: Assembly Members Beall and De Leon)
608	687	—	La Malfa (Coauthor: Assembly Member Berg)
609	695	—	Karnette
610	739	—	Laird (Coauthors: Assembly Members Huffman, Jones, and Levine)
611	761	—	Coto (Coauthors: Assembly Members De Leon, Hernandez, Mendoza, Saldana, Solorio, and Soto) (Coauthors: Senators Cedillo and Padilla)
612	763	—	Saldana (Coauthors: Assembly Members Arambula, Coto, Hernandez, Mendoza, and Solorio) (Coauthors: Senators Cedillo and Padilla)

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613	765	—	Evans (Coauthors: Assembly Members Ma, Plescia, Portantino, Price, and Torrico) (Coauthors: Senators Denham, Florez, Negrete McLeod, Wyland, and Yee)
614	783	—	Arambula (Coauthor: Assembly Member Jones) (Coauthor: Senator Denham)
615	812	—	Hernandez
616	833	—	Ruskin
617	910	—	Karnette
618	927	—	Saldana (Coauthor: Senator Lowenthal)
619	930	—	Jones
620	993	—	Aghazarian
621	1073	—	Nava
622	1078	—	Lieber (Principal coauthor: Senator Alquist) (Coauthor: Assembly Member Swanson)
623	1098	—	Saldana
624	1104	—	Aghazarian
625	1123	—	Berg
626	1130	—	Laird
627	1168	—	Jones (Coauthors: Assembly Members DeVore, Huffman, Karnette, Portantino, and Salas) (Coauthor: Senator Romero)
628	1420	—	Laird
629	1689	—	Lieber and Berryhill
630	1728	—	Committee on Transportation (Nava (Chair), Duvall (Vice Chair), Carter, DeSaulnier, Galgiani, Garrick, Horton, Houston, Huff, Karnette, Portantino, Ruskin, Solorio, and Soto)
631	1721	—	Committee on Jobs, Economic Development, and the Economy (Arambula (Chair), Silva (Vice Chair), Caballero, Garcia, Price, and Salas)
632	1742	—	Committee on Environmental Safety and Toxic Materials (Huffman (Chair), Smyth (Vice Chair), Eng, Evans, Feuer, Jeffries, and Nava)
633	—	2	Cedillo
634	—	23	Cogdill (Coauthor: Senator Florez)
635	—	45	Perata (Coauthors: Assembly Members Portantino and Cook)
636	—	94	Kuehl (Principal coauthors: Assembly Members Hayashi and Laird)
637	—	163	Migden
638	—	238	Aanestad
639	—	248	Padilla
640	—	250	Corbett (Coauthor: Senator Kuehl) (Coauthors: Assembly Members Beall, Eng, Huffman, Krekorian, and Wolk)
641	—	276	Steinberg and Cox
642	—	306	Ducheny
643	—	341	Lowenthal (Principal coauthor: Assembly Member Arambula)
644	—	373	Kehoe
645	—	391	Ducheny (Principal coauthor: Assembly Member Leno) (Coauthors: Senators Alquist and Romero)
646	—	419	Kehoe (Coauthor: Assembly Member Saldana)
647	—	421	Ducheny
648	—	490	Alquist and Torlakson
649	—	518	Migden
650	—	537	Simitian
651	—	581	Wiggins (Coauthor: Senator Ducheny) (Coauthors: Assembly Members Berg, Berryhill, Davis, Dymally, Evans, Jeffries, and Keene)
652	—	586	Dutton (Principal coauthor: Senator Correa) (Coauthors: Assembly Members Emmerson, Ma, and Saldana)
653	—	624	Padilla
654	—	625	Padilla
655	—	655	Margett
656	—	661	Maldonado
657	—	701	Wiggins (Principal coauthor: Assembly Member Leno) (Coauthor: Senator Migden) (Coauthors: Assembly Members Beall, Huffman, and Laird)
658	—	707	Ducheny
659	—	774	Ridley-Thomas
660	—	815	Migden
661	—	850	Maldonado and Correa
662	—	869	Ridley-Thomas
663	—	884	Lowenthal (Coauthor: Assembly Member Nava)
664	—	886	Negrete McLeod (Principal coauthor: Assembly Member Lieu) (Coauthor: Senator Vincent) (Coauthors: Assembly Members Dymally and Soto)
665	—	898	Simitian
666	—	920	Oropeza
667	—	970	Ridley-Thomas
668	—	1017	Perata
669	—	1028	Padilla and Florez
670	373	—	Wolk
671	221	—	Anderson (Principal coauthors: Assembly Members Levine, Lieber, Lieu, Ma, and Solorio) (Coauthors: Assembly Members Adams, Benoit, Caballero, Cook, De Leon, DeVore, Duvall, Emmerson, Evans, Feuer, Gaines, Garrick, Horton, Houston, Huffman, Jeffries, Keene, Leno, Plescia, Portantino, Sharon Runner, Silva, Spitzer, Strickland, Tran, and Villines) (Coauthors: Senators Aanestad, Ashburn, Battin, Cogdill, Dutton, Oropeza, Romero, Runner, Steinberg, and Wyland)
672	1108	—	Ma (Coauthor: Assembly Member Huffman)
673	57	—	Soto (Principal coauthors: Assembly Members Leno and Nava) (Coauthors: Assembly Members Carter, DeVore, Dymally, Huffman, Mendoza, and Portantino) (Coauthor: Senator Torlakson)
674	87	—	Blakeslee
675	1404	—	Laird
676	1410	—	Feuer
677	12	—	Beall (Principal coauthor: Senator Alquist)
678	253	—	Eng
679	262	—	Coto
680	294	—	Adams
681	—	754	Kehoe
682	430	—	Benoit
683	632	—	Salas
684	809	—	Blakeslee

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685	—	1036	Perata
686	949	—	Krekorian (Coauthor: Senator Alquist)
687	959	—	Soto
688	962	—	Houston
689	980	—	Charles Calderon
690	987	—	Jones
691	1014	—	Bass
692	1053	—	Nunez
693	1226	—	Hayashi (Coauthors: Assembly Members Emmerson and Galgiani) (Coauthor: Senator Romero)
694	1242	—	Karnette
695	1253	—	Caballero (Coauthor: Senator Denham)
696	1259	—	Caballero (Coauthor: Assembly Member Laird) (Coauthors: Senators Cox, Denham, and Steinberg)
697	1269	—	Hernandez and Feuer
698	1296	—	Torrico
699	1298	—	Jones and Lieber (Coauthors: Assembly Members Huffman and Salas)
700	1302	—	Horton
701	1310	—	Leno
702	1324	—	De La Torre (Coauthor: Senator Cedillo)
703	1347	—	Caballero
704	1359	—	Parra
705	1371	—	Ruskin
706	76	—	Lieber
707	110	—	Laird (Coauthors: Assembly Members Berg, De Leon, Evans, Hancock, Hayashi, Hernandez, Jones, Leno, Ma, and Salas) (Coauthors: Senators Kehoe and Kuehl)
708	1430	—	Garrick (Coauthors: Assembly Members Adams and Mendoza)
709	1447	—	Charles Calderon
710	1460	—	Saldana
711	1484	—	Krekorian
712	1559	—	Berryhill (Principal coauthor: Senator Scott) (Coauthors: Assembly Members Adams, Anderson, Benoit, Blakeslee, DeVore, Gaines, Galgiani, Houston, Maze, Nakanishi, Silva, Smyth, Strickland, Tran, and Villines)
713	1613	—	Blakeslee (Coauthors: Assembly Members Adams, Emmerson, Huffman, Parra, and Torrico)
714	1614	—	Strickland (Coauthors: Assembly Members Coto, Leno, and Levine)
715	1645	—	La Malfa
716	1670	—	Mendoza
717	1672	—	Nunez
718	—	224	Battin
719	—	241	Kuehl
720	—	601	Torlakson (Coauthor: Senator Alquist)
721	—	666	Maldonado
722	159	—	Jones (Principal coauthors: Assembly Members Benoit and Carter) (Principal coauthor: Senator Cedillo) (Coauthors: Assembly Members Garcia, Levine, and Lieber)
723	—	859	Scott (Coauthor: Assembly Member Garrick)
724	—	1021	Padilla
725	—	1029	Ducheny
726	335	—	De Leon
727	—	67	Perata (Coauthor: Senator Steinberg)
728	—	719	Machado and Florez
729	—	990	Kuehl (Coauthor: Assembly Member Brownley)
730	—	132	Committee on Education (Senators Scott (Chair), Alquist, Denham, Maldonado, Padilla, Romero, Simitian, Torlakson, and Wyland)
731	—	219	Steinberg and Romero
732	—	405	Steinberg (Coauthor: Assembly Member Nunez)
733	—	717	Perata
734	—	976	Torlakson
735	258	—	Krekorian (Principal coauthor: Assembly Member Feuer) (Coauthors: Assembly Members Beall, Huffman, Karnette, Portantino, and Saldana)
736	617	—	Torrico
737	932	—	Jeffries
738	1248	—	Evans
739	1488	—	Mendoza
740	1539	—	Krekorian and Lieber (Coauthors: Assembly Members Beall, Leno, and Ma) (Coauthors: Senators Cedillo, Kuehl, Romero, Scott, and Steinberg)
741	1540	—	Bass (Principal coauthor: Assembly Member Leno) (Principal coauthor: Senator Torlakson) (Coauthor: Senator Cedillo)
742	1712	—	Committee on Veterans Affairs (Salas (Chair), Cook (Vice Chair), Beall, Carter, Lieu, Saldana, and Wolk)
743	1658	—	Sharon Runner
744	1739	—	Committee on Governmental Organization (Torrico (Chair), De Leon, Evans, Levine, Mendoza, Portantino, Price, Richardson, and Soto)
745	663	—	Galgiani (Principal coauthor: Assembly Member Aghazarian)
746	421	—	Benoit
747	678	—	Gaines, Benoit, and Spitzer
748	808	—	Parra and Spitzer (Coauthors: Assembly Members Benoit, Garrick, and Sharon Runner)
749	1165	—	Maze (Coauthors: Assembly Members Sharon Runner and Spitzer)
750	118	—	Nunez (Principal coauthor: Assembly Member Laird)

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1	SCR 2	Perata
2	SCR 1	Scott
3	ACR 3	Torrico, Eng, Hayashi, Horton, Lieu, Ma, Nakanishi, and Tran (Principal coauthors: Senators Machado, Ridley-Thomas, and Yee) (Coauthors: Assembly Members Adams, Aghazarian, Alarcon, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Calderon, Carter, Cook, Coto, Davis, De La Torre, de Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Fuller, Galgiani, Garcia, Garrick, Hancock, Hernandez, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Soto, Spitzer, Strickland, Swanson, Villines, Walters, and Wolk)
4	ACR 5	Berg (Coauthors: Assembly Members Adams, Aghazarian, Alarcon, Anderson, Arambula, Bass, Beall, Benoit, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hayashi, Hernandez, Houston, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Levine, Lieber, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
5	ACR 14	Torrico, Eng, Hayashi, Horton, Lieu, Ma, Nakanishi, and Tran (Principal coauthor: Senator Yee) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Davis, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hernandez, Huff, Huffman, Jeffries, Jones, Karnette, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Villines, Walters, and Wolk) (Coauthors: Senators Machado and Ridley-Thomas)
6	ACR 16	Nakanishi (Principal coauthor: Senator Yee) (Coauthors: Assembly Members Eng, Hayashi, Horton, Lieu, Ma, Torrico, Tran, Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Carter, Cook, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Gaines, Galgiani, Garcia, Garrick, Hancock, Hernandez, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Mendoza, Mullin, Niello, Nunez, Plescia, Portantino, Price, Richardson, Salas, Saldana, Smyth, Solorio, Spitzer, Swanson, Walters, and Wolk) (Coauthors: Senators Machado and Ridley-Thomas)
7	ACR 19	Richardson (Principal coauthors: Assembly Members Bass, Carter, Davis, Dymally, Price, and Swanson) (Principal coauthors: Senators Ridley-Thomas and Vincent) (Coauthors: Assembly Members Adams, Aghazarian, Alarcon, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Torrico, Tran, Villines, Walters, and Wolk)
8	SCR 5	Lowenthal
9	ACR 2	Carter
10	ACR 8	Torrico
11	ACR 6	Ma (Coauthors: Assembly Members Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Galgiani, Garcia, Garrick, Hancock, Hayashi, Horton, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Richardson, Ruskin, Salas,

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		Saldana, Smyth, Solorio, Strickland, Swanson, Torrico, Villines, and Wolk)
12	ACR 23	Arambula (Principal coauthors: Assembly Members Cook, DeVore, Garcia, Hayashi, Mullin, Price, Salas, and Silva) (Coauthors: Assembly Members Aghazarian, Alarcon, Anderson, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garrick, Hernandez, Horton, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Richardson, Sharon Runner, Ruskin, Saldana, Smyth, Solorio, Soto, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Walters)
13	SCR 9	Steinberg (Coauthors: Assembly Members Galgiani, Jones, and Levine)
14	SCR 12	Alquist (Coauthors: Assembly Members Adams, Aghazarian, Alarcon, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Garcia, Garrick, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Lieber, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Smyth, Soto, Spitzer, Strickland, Swanson, Tran, Walters, and Wolk)
15	SCR 17	Ridley-Thomas and Vincent (Coauthors: Assembly Members Bass, Carter, Davis, Dymally, Price, Richardson, and Swanson)
16	SCR 13	Corbett (Principal coauthor: Assembly Member Mullin)
17	ACR 18	Ruskin (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Salas, Saldana, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Villines, Walters, and Wolk)
18	ACR 32	Mendoza
19	ACR 33	Caballero (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berg, Brownley, Charles Calderon, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Evans, Feuer, Gaines, Galgiani, Garrick, Hancock, Hayashi, Hernandez, Horton, Huff, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Richardson, Ruskin, Salas, Saldana, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, and Tran)
20	ACR 36	Strickland
21	SCR 7	Battin
22	SCR 25	Cedillo (Coauthors: Senators Alquist, Calderon, Corbett, Correa, Ducheny, Florez, Lowenthal, Negrete McLeod, Oropeza, Padilla, Ridley-Thomas, Romero, Scott, Torlakson, and Yee) (Coauthors: Assembly Members Coto, Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Dymally, Eng, Evans, Feuer, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nava, Parra, Portantino, Price, Richardson, Salas, Saldana, Smyth, Spitzer, Swanson, Torrico, Tran, Villines, and Wolk)
23	ACR 13	Galgiani (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Dymally, Eng, Evans, Feuer, Fuller, Gaines, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Huffman, Jones, Karnette, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Parra, Plescia, Portantino, Price, Richardson, Salas, Saldana, Smyth, Spitzer, Swanson, Torrico, Tran, Villines, and Wolk)
24	ACR 34	Nakanishi (Principal coauthor: Senator Migden) (Coauthors: Assembly Members Benoit, Galgiani, Hayashi, Huff, Lieber, Maze, Silva, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berg, Berryhill, Blakeslee, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De

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			Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Garrick, Hancock, Hernandez, Horton, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieu, Ma, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Portantino, Price, Richardson, Sharon Runner, Ruskin, Saldana, Smyth, Solorio, Spitzer, Swanson, Tran, Villines, Walters, and Wolk) (Coauthors: Senators Cox, Dutton, Maldonado, and Romero)
25	SCR	18	Torlakson, Corbett, Cox, Ducheny, Dutton, Kuehl, Maldonado, Romero, Vincent, and Wyland (Coauthors: Assembly Members Benoit, Gaines, Garcia, Hayashi, Horton, Jeffries, Karnette, Laird, Levine, Lieu, Ma, Mendoza, and Silva)
26	SCR	23	Cox
27	AJR	15	Krekorian and Aghazarian (Principal coauthors: Assembly Members Charles Calderon, De Leon, Leno, Ma, Nunez, and Portantino) (Principal coauthors: Senators Scott and Simitian) (Coauthors: Assembly Members Adams, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Caballero, Carter, Cook, Coto, Davis, De La Torre, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, La Malfa, Laird, Levine, Lieber, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Price, Richardson, Sharon Runner, Ruskin, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Tran, Villines, Walters, and Wolk)
28	ACR	1	Levine and Ruskin (Coauthors: Assembly Members Adams, Alarcon, Anderson, Benoit, Blakeslee, Cook, DeVore, Dymally, Galgiani, Horton, Huff, Huffman, Jones, Laird, Lieu, Krekorian, Ma, Mullin, Nakanishi, Nava, Portantino, Richardson, Salas, Saldana, Solorio, Strickland, Tran, Wolk, Aghazarian, Arambula, Bass, Beall, Berg, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Garcia, Garrick, Hancock, Hayashi, Hernandez, Houston, Jeffries, Karnette, Keene, Krekorian, La Malfa, Leno, Lieber, Maze, Mendoza, Niello, Nunez, Parra, Plescia, Price, Sharon Runner, Silva, Smyth, Spitzer, Swanson, Torrico, Villines, and Walters) (Coauthors: Senators Corbett, Cox, Dutton, Harman, Kuehl, Maldonado, Margett, Padilla, Romero, Wiggins, and Yee)
29	SCR	8	Battin (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Jeffries, Jones, Keene, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Richardson, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
30	SCR	19	Negrete McLeod and Yee (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Walters, and Wolk)
31	SCR	26	Yee (Coauthor: Senator Ducheny)
32	SCR	35	Correa (Principal coauthor: Assembly Member Spitzer) (Coauthors: Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Calderon, Cedillo, Cogdill, Corbett, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, Wiggins, Wyland, and Yee) (Coauthors: Assembly Members Adams, Aghazarian, Beall, Benoit, Berryhill, Duvall, Galgiani, Jones, Nakanishi, Parra, Sharon Runner, Ruskin, Silva, Smyth, Soto, and Villines)
33	ACR	37	Mendoza
34	ACR	40	Lieu, Ma, and Niello (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass,

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			Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
35	ACR	42	Berryhill (Principal coauthor: Assembly Member Benoit) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Jeffries, Jones, Keene, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
36	SCR	29	Scott, Cox, Torlakson, and Yee
37	SCR	28	Torlakson
38	SCR	31	Padilla (Principal coauthor: Assembly Member Caballero) (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuller, Gaines, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Wolk)
39	ACR	29	Emmerson and La Malfa
40	ACR	38	Evans (Principal coauthor: Senator Wiggins)
41	ACR	46	Lieu
42	ACR	43	Coto (Coauthors: Assembly Members Arambula, Caballero, Charles Calderon, De La Torre, De Leon, Hernandez, Mendoza, Nava, Nunez, Parra, Salas, Saldana, Solorio, Soto, Torrico, Adams, Aghazarian, Bass, Beall, Benoit, Berg, Blakeslee, Brownley, Carter, Cook, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Horton, Houston, Huffman, Jeffries, Jones, Karnette, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mullin, Nakanishi, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Silva, Spitzer, Strickland, Swanson, Tran, Villines, and Wolk) (Coauthors: Senators Calderon, Cedillo, Correa, Ducheny, Florez, Negrete McLeod, Oropeza, Padilla, and Romero)
43	ACR	47	Price
44	ACR	49	Davis and Hancock
45	AJR	1	Dymally (Coauthors: Assembly Members Aghazarian, Alarcon, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hayashi, Hernandez, Horton, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Soto, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Walters)
46	ACR	45	Caballero
47	ACR	50	Torrico, Eng, Hayashi, Horton, Lieu, Ma, Nakanishi, and Tran (Principal coauthor: Senator Yee) (Coauthors: Assembly Members Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hernandez, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Richardson, Sharon Runner, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Walters, and Wolk) (Coauthors: Senators Machado and Ridley-Thomas)
48	ACR	52	Spitzer
49	SCR	36	Yee
50	SCR	42	Steinberg and Perata (Coauthors: Assembly Members Berg, Hayashi,

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51	SCR	44	Cox (Coauthors: Assembly Members Gaines, Nakanishi, and Torrico)
52	AJR	10	Villines
53	ACR	48	Blakeslee (Coauthors: Assembly Members Benoit, Cook, DeVore, Jeffries, Lieu, Ruskin, Adams, Aghazarian, Anderson, Arambula, Bass, Berg, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Salas, Saldana, Silva, Smyth, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) (Coauthors: Senators Alquist, Ducheny, Dutton, Margett, and Romero)
54	SCR	43	Machado
55	AJR	13	Caballero
56	ACR	53	Walters (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Wolk)
57	ACR	54	Salas
58	SCR	49	Ridley-Thomas (Coauthors: Senators Cedillo, Florez, Kuehl, Lowenthal, Vincent, and Yee)
59	ACR	17	Horton (Coauthor: Senator Ducheny)
60	ACR	60	Duvall (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Emmerson, Eng, Feuer, Fuentes, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Silva, Smyth, Solorio, Spitzer, Swanson, Tran, Villines, Walters, and Wolk)
61	SCR	34	Alquist (Principal coauthor: Assembly Member Beall) (Coauthors: Senators Corbett and Simitian) (Coauthors: Assembly Members Coto, Laird, Lieber, Ruskin, and Silva)
62	SCR	39	Torlakson
63	SJR	6	Kehoe, Corbett, Kuehl, Migden, Romero, and Torlakson (Coauthors: Assembly Members Krekorian, Laird, Leno, and Portantino)
64	ACR	10	Cook (Coauthors: Assembly Members Anderson, Benoit, DeVore, Fuller, Garrick, Horton, Huff, Jeffries, Maze, Portantino, Ruskin, Spitzer, Strickland, and Tran) (Coauthors: Senators Battin, Dutton, Harman, Hollingsworth, and Wiggins)
65	ACR	20	Cook (Coauthors: Assembly Members Anderson, Benoit, Berryhill, De Leon, DeVore, Emmerson, Garrick, Horton, Huff, Jeffries, Krekorian, Maze, Sharon Runner, Ruskin, Silva, Solorio, Spitzer, Strickland, and Tran) (Coauthors: Senators Battin and Harman)
66	ACR	25	Lieber (Coauthors: Assembly Members Beall, Caballero, Coto, Laird, Ruskin, and Torrico) (Coauthors: Senators Alquist, Maldonado, and Simitian)
67	ACR	26	Sharon Runner
68	ACR	27	Charles Calderon
69	ACR	30	Berg
70	ACR	31	Berg
71	ACR	39	Keene
72	ACR	41	Emmerson and Benoit (Coauthor: Senator Dutton)
73	AJR	14	Jeffries (Coauthors: Assembly Members Adams, Benoit, Carter, Cook,

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			Emmerson, Horton, Huff, and Maze) (Coauthors: Senators Dutton, Negrete McLeod, and Wyland)
74	AJR	17	Lieu
75	AJR	19	Ma (Coauthors: Assembly Members Bass, Berg, De La Torre, De Leon, Dymally, Gaines, Hancock, Hayashi, Jones, Lieber, Nakanishi, Salas, Strickland, Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berryhill, Blakeslee, Brownley, Caballero, Cook, Coto, Davis, DeSaulnier, Duvall, Eng, Evans, Feuer, Fuller, Galgiani, Garcia, Garrick, Hernandez, Horton, Houston, Huff, Huffman, Karnette, Krekorian, Laird, Leno, Levine, Maze, Mendoza, Mullin, Nava, Niello, Parra, Plescia, Portantino, Price, Richardson, Saldana, Smyth, Spitzer, Swanson, Torrico, Tran, Villines, and Wolk) (Coauthor: Senator Aanestad)
76	SJR	5	Yee (Coauthors: Senators Aanestad, Ackerman, Alquist, Ashburn, Battin, Cedillo, Cogdill, Correa, Cox, Ducheny, Dutton, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Steinberg, Torlakson, Wiggins, and Wyland) (Coauthors: Assembly Members Beall, Carter, Cook, Salas, Saldana, and Wolk)
77	SCR	30	Padilla
78	SCR	45	Battin
79	SCR	46	Machado
80	SCR	47	Battin
81	SCR	48	Harman (Coauthors: Senators Corbett, Dutton, Florez, Maldonado, and Runner) (Coauthors: Assembly Members DeVore, Dymally, Maze, and Portantino)
82	SCR	54	Perata
83	SCR	4	Cox
84	SCR	10	Aanestad and Cox (Coauthor: Assembly Member Gaines)
85	SCR	11	Negrete McLeod and Margett (Coauthor: Assembly Member Soto)
86	SCR	16	Negrete McLeod and Dutton (Coauthor: Assembly Member Emmerson)
87	SCR	21	Ducheny
88	SCR	22	Cox and Torlakson
89	SCR	33	Hollingsworth
90	SCR	38	Cedillo (Principal coauthor: Senator Runner)
91	SCR	41	Corbett
92	SCR	14	Florez
93	SCR	15	Aanestad (Coauthor: Senator Denham) (Coauthor: Assembly Member Keene)
94	SCR	20	Kuehl (Coauthor: Assembly Member Brownley)
95	SCR	32	Hollingsworth
96	SCR	37	Simitian and Alquist
97	SJR	3	Aanestad (Coauthors: Senators Cogdill, Cox, Denham, Harman, Maldonado, and Wiggins) (Coauthors: Assembly Members Benoit, Gaines, Galgiani, Jeffries, Krekorian, Maze, and Strickland)
98	SJR	8	Migden (Coauthors: Senators Ackerman, Alquist, Cedillo, Corbett, Kuehl, Negrete McLeod, Padilla, Simitian, Steinberg, Torlakson, Wiggins, Wyland, and Yee) (Coauthors: Assembly Members Bass, Dymally, Hancock, Hayashi, Laird, Nava, Parra, Portantino, Ruskin, and Salas)
99	ACR	4	Benoit (Coauthors: Assembly Members Adams, Anderson, Berryhill, Cook, De Leon, DeVore, Fuller, Garcia, Horton, Huff, Jeffries, Maze, Mullin, Portantino, Sharon Runner, Ruskin, Silva, Soto, Spitzer, and Walters) (Coauthors: Senators Battin, Cogdill, Cox, Dutton, Harman, Romero, Runner, Wiggins, and Wyland)
100	ACR	35	Evans
101	ACR	51	Spitzer and Eng
102	SCR	3	Cedillo
103	SCR	59	Ashburn
104	SCR	40	Ackerman
105	SCR	50	Harman (Coauthors: Assembly Members Cook, DeVore, Horton, Huff, Karnette, and Maze)
106	ACR	22	Benoit and Cook (Coauthors: Assembly Members Jeffries, Maze, Sharon Runner, and Spitzer) (Coauthors: Senators Battin, Dutton, and Hollingsworth)
107	ACR	62	DeSaulnier (Principal coauthor: Senator Torlakson) (Coauthor: Assembly Member Wolk) (Coauthors: Senators Perata and Wiggins)
108	AJR	11	Swanson
109	AJR	29	Eng (Coauthors: Assembly Members Caballero, Davis, Dymally, Laird, Leno, Ruskin, Solorio, Adams, Aghazarian, Arambula, Bass, Beall, Berg, Berryhill, Brownley, Cook, Coto, De La Torre, De Leon, DeSaulnier, Evans, Feuer, Fuentes, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Jones, Karnette, Krekorian, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Plescia, Portantino, Price, Richardson, Salas, Saldana, Silva, Soto, Spitzer, Strickland, Swanson, Torrico, Tran, and Wolk) (Coauthors: Senators Kehoe, Kuehl, and Migden)
110	SCR	51	Maldonado
111	SJR	2	Migden and Perata
112	SJR	9	Oropeza
113	ACR	57	Berg (Principal coauthor: Senator Wiggins)
114	ACR	58	Fuller (Coauthor: Senator Ashburn)

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115	ACR	59	Cook (Coauthors: Assembly Members DeVore, Emmerson, Huff, Maze, and Salas) (Coauthors: Senators Ashburn, Dutton, and Runner)
116	AJR	5	Hernandez
117	AJR	7	Arambula (Principal coauthors: Assembly Members Maze and Nava) (Coauthors: Assembly Members Blakeslee, Caballero, Galgiani, Mullin, Parra, Salas, Solorio, and Wolk)
118	AJR	16	Levine (Coauthors: Assembly Members Bass, Eng, Feuer, Coto, Keene, Strickland, Adams, Aghazarian, Arambula, Beall, Berg, Berryhill, Brownley, Caballero, Carter, Cook, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Emmerson, Evans, Fuentes, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, and Wolk)
119	AJR	24	Evans and Leno (Coauthors: Assembly Members Nava, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuentes, Gaines, Galgiani, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) (Coauthors: Senators McClintock and Migden)
120	SJR	7	Maldonado, Denham, and Ducheny (Coauthor: Assembly Member Berryhill)
121	ACR	7	Wolk (Principal coauthors: Assembly Members Evans, Houston, and Nakanishi) (Principal coauthor: Senator Wiggins)
122	AJR	2	Dymally (Coauthors: Assembly Members DeSaulnier and Jones)
123	AJR	4	Beall
124	AJR	20	Feuer (Coauthors: Assembly Members Bass, Carter, Dymally, Krekorian, and Levine) (Coauthor: Senator Kuehl)
125	AJR	23	Hancock (Coauthors: Assembly Members Benoit, De La Torre, DeSaulnier, Eng, Huffman, Karnette, Laird, Leno, Ma, Mullin, Parra, Price, Solorio, and Wolk) (Coauthors: Senators Migden, Negrete McLeod, Steinberg, Torlakson, and Wiggins)
126	SCR	52	Yee (Principal coauthor: Assembly Member Levine) (Coauthors: Senators Romero and Vincent) (Coauthor: Assembly Member Portantino)
127	SCR	55	Perata
128	SCR	58	Cedillo, Alquist, Calderon, Corbett, Correa, Ducheny, Florez, Kuehl, Lowenthal, Migden, Negrete McLeod, Oropeza, Padilla, Ridley-Thomas, Scott, Simitian, Steinberg, Vincent, and Yee (Coauthors: Senators Perata, Romero, and Torlakson) (Coauthors: Assembly Members Arambula, Bass, Caballero, Coto, Davis, De Leon, Dymally, Eng, Galgiani, Hernandez, Laird, Ma, Mendoza, Nava, Portantino, Solorio, Soto, Swanson, and Torrico)
129	SCR	61	Lowenthal (Principal coauthor: Senator Migden) (Coauthors: Senators Corbett and Kuehl) (Coauthors: Assembly Members Dymally, Laird, Lieu, Maze, Mullin, and Portantino)
130	SCR	62	Alquist and Kuehl (Coauthor: Assembly Member Berg)
131	SCR	65	Steinberg
132	SCR	66	Wyland
133	SJR	13	Alquist, Cedillo, Corbett, Correa, Romero, and Vincent (Coauthors: Assembly Members Brownley, Caballero, Eng, Hernandez, Ruskin, Salas, Soto, Adams, Aghazarian, Arambula, Bass, Beall, Berg, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Evans, Feuer, Fuentes, Galgiani, Hancock, Hayashi, Horton, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Plescia, Portantino, Price, Saldana, Solorio, Spitzer, Swanson, Torrico, and Wolk)
134	ACR	11	Beall (Principal coauthor: Assembly Member Ma) (Coauthors: Assembly Members De Leon, DeSaulnier, Eng, Hayashi, Huffman, Laird, Lieu, Ruskin, Salas, Spitzer, Wolk, Adams, Aghazarian, Anderson, Arambula, Bass, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, DeVore, Duvall, Dymally, Emmerson, Evans, Fuentes, Fuller, Gaines, Galgiani, Garcia, Hancock, Hernandez, Horton, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Leno, Levine, Maze, Mendoza, Nakanishi, Nava, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Saldana, Silva, Solorio, Swanson, Torrico, Tran, and Villines) (Coauthors: Senators Kuehl, Romero, and Torlakson)

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135	ACR	28	Ma (Coauthor: Senator Padilla)
136	ACR	66	Ma (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Villines, Walters, and Wolk) (Coauthors: Senators Alquist, Migden, and Yee)
137	ACR	67	Price (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berryhill, Blakeslee, Brownley, Caballero, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Portantino, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
138	ACR	68	Hayashi (Coauthor: Senator Oropeza)
139	ACR	71	Portantino and Niello (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Solorio, Soto, Spitzer, Swanson, Torrico, Tran, Villines, and Wolk)
140	ACR	72	Mendoza (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Solorio, Soto, Spitzer, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
141	ACR	64	Lieu (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berryhill, Blakeslee, Brownley, Caballero, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Richardson, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, Villines, Walters, and Wolk)
142	ACR	74	Fuentes
143	AJR	18	Solorio (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Bass, Beall, Berg, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Feuer, Hancock, Hayashi, Hernandez, Horton, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Ma, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Portantino, Price, Richardson, Ruskin, Saldana, Swanson, Tran, and Wolk) (Coauthors: Senators Cedillo, Negrete McLeod, and Romero)
144	AJR	34	Price (Coauthors: Assembly Members Carter, Davis, Dymally, Eng, Laird, Lieu, Ma, Mendoza, and Portantino) (Coauthors: Senators Alquist, Kuehl, Margett, and Romero)
145	ACR	55	Mullin (Coauthors: Assembly Members Dymally, Hancock, Laird, Lieu, Maze, Nunez, and Price) (Coauthors: Senators Alquist, Cox, and Steinberg)
146	ACR	56	DeSaulnier (Coauthors: Assembly Members Dymally, Hancock, Horton, Laird, and Maze) (Coauthors: Senators Corbett and Torlakson)
147	ACR	70	Galgiani
148	ACR	73	Bass and Duvall

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149	ACR	75	Coto
150	AJR	27	Solorio (Coauthors: Assembly Members Arambula, Bass, Beall, Berg, Brownley, Charles Calderon, Coto, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Galgiani, Hancock, Hayashi, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Portantino, Richardson, Ruskin, Salas, Saldana, Soto, Swanson, Torrico, and Wolk)
151	AJR	28	Leno (Principal coauthor: Assembly Member Bass)
152	AJR	32	Karnette, Cook, Lieu, and Sharon Runner (Coauthors: Assembly Members Arambula, Caballero, DeVore, Dymally, Fuentes, Garcia, Mendoza, Portantino, Price, Salas, Silva, Adams, Aghazarian, Anderson, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Emmerson, Eng, Evans, Feuer, Fuller, Gaines, Galgiani, Garrick, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Levine, Ma, Maze, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Ruskin, Saldana, Solorio, Soto, Spitzer, Swanson, Torrico, Tran, Villines, Walters, and Wolk)

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None.			

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None.					

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None.					

STATUTES OF CALIFORNIA

2007 – 08

REGULAR SESSION

2007 CHAPTERS

CHAPTER 1

An act relating to taxation, to take effect immediately, tax levy.

[Approved by Governor February 7, 2007. Filed with
Secretary of State February 7, 2007.]

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

SECTION 1. This act shall be known and may be cited as the California Fallen Firefighters Assistance Tax Clarification Act of 2006.

SEC. 2. (a) For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code, payments made on behalf of any firefighter who died as a result of the October 2006 Esperanza Incident fire in Southern California to any family member of such firefighter by an organization described in paragraph (1) or (2) of Section 509(a) of the Internal Revenue Code shall be treated as related to the purpose or function constituting the basis for that organization's exemption under Chapter 4 (commencing with Section 23701) of Part 11 of the Revenue and Taxation Code if the payments are made in good faith using a reasonable and objective formula which is consistently applied.

(b) Subdivision (a) shall apply only to payments made on or after October 26, 2006, and before June 1, 2007.

SEC. 3. The Legislature finds and declares that the enactment of this act and the retroactive application provided by Section 2 of this act are necessary for the public purpose of providing relief under California law, by treating payments made by an organization to any family member of any firefighter who died as a result of the Esperanza Incident fire in Southern California as payments made in furtherance of the charitable purpose of that organization in order to prevent the loss of that organization's tax-exempt status.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 2

An act to amend Sections 1000, 1001, 1201, and 1202 of the Elections Code, relating to elections.

[Approved by Governor March 15, 2007. Filed with
Secretary of State March 15, 2007.]

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

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

(a) California has the largest population and largest congressional delegation of any state in the union yet California's current June presidential primary election date virtually ensures the presidential nominees for the major political parties will be determined before California voters have an opportunity to cast their ballots.

(b) It is vital to restore to California voters the opportunity to vote in a presidential primary election that is timely and meaningful in choosing presidential candidates.

(c) Conducting the California presidential primary election on the first Tuesday in February will encourage presidential candidates to campaign in California, and to debate and discuss issues and policies important to the people of California.

(d) Conducting the California presidential primary election on the first Tuesday in February will encourage voter registration, voter interest, and voter participation in the 2008 presidential primary election and subsequent presidential primary elections in California.

SEC. 2. Section 1000 of the Elections Code is amended to read:

1000. The established election dates in each year are as follows:

(a) The second Tuesday of April in each even-numbered year.

(b) The first Tuesday after the first Monday in March of each odd-numbered year.

(c) The first Tuesday after the first Monday in June in each year.

(d) The first Tuesday after the first Monday in November of each year.

(e) The first Tuesday in February of each year evenly divisible by the number four.

SEC. 3. Section 1001 of the Elections Code is amended to read:

1001. Elections held in June and November of each even-numbered year and held the first Tuesday in February of each year evenly divisible by the number four are statewide elections and these dates are statewide election dates.

SEC. 4. Section 1201 of the Elections Code is amended to read:

1201. The statewide direct primary shall be held on the first Tuesday after the first Monday in June of each even-numbered year.

SEC. 5. Section 1202 of the Elections Code is amended to read:

1202. The presidential primary shall be held on the first Tuesday in February in any year evenly divisible by the number four, and shall not be consolidated with the statewide direct primary held in that year.

SEC. 6. It is the intent of the Legislature to fully reimburse counties for costs resulting from the presidential primary elections added by this act in an expeditious manner upon certification of those costs.

CHAPTER 3

An act to amend, repeal, and add Sections 1170 and 1170.3 of the Penal Code, relating to sentencing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 30, 2007. Filed with Secretary of State March 30, 2007.]

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

SECTION 1. It is the intent of the Legislature in enacting this provision to respond to the decision of the United States Supreme Court in Cunningham v. California, No. 05-6551, 2007 U.S. Lexis 1324. It is the further intent of the Legislature to maintain stability in California's criminal justice system while the criminal justice and sentencing structures in California sentencing are being reviewed.

SEC. 2. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to

promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Secretary of the Department of Corrections and Rehabilitation. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Secretary of the Department of Corrections and Rehabilitation.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing.

The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Secretary of the Department of Corrections and Rehabilitation, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds both of the following:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) The prisoner or his or her family member or designee may request consideration for recall and resentencing by contacting the chief medical officer at the prison or the Secretary of the Department of Corrections and Rehabilitation. Upon receipt of the request, if the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary may make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(5) Any recommendation for recall submitted to the court by the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(6) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(f) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 1170 is added to the Penal Code, to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community.

The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Secretary of the Department of Corrections and Rehabilitation. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that

justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Secretary of Corrections and Rehabilitation, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds both of the following:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

The board shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This

subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) The prisoner or his or her family member or designee may request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, if the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary may make a recommendation to the board with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(5) Any recommendation for recall submitted to the court by the secretary or the board shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(6) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(f) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) This section shall become operative on January 1, 2009.

SEC. 4. Section 1170.3 of the Penal Code is amended to read:

1170.3. The Judicial Council shall seek to promote uniformity in sentencing under Section 1170, by:

(a) The adoption of rules providing criteria for the consideration of the trial judge at the time of sentencing regarding the court's decision to:

(1) Grant or deny probation.

(2) Impose the lower, middle, or upper prison term.

(3) Impose concurrent or consecutive sentences.

(4) Determine whether or not to impose an enhancement where that determination is permitted by law.

(b) The adoption of rules standardizing the minimum content and the sequential presentation of material in probation officer reports submitted to the court.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 5. Section 1170.3 is added to the Penal Code, to read:

1170.3. The Judicial Council shall seek to promote uniformity in sentencing under Section 1170, by:

(a) The adoption of rules providing criteria for the consideration of the trial judge at the time of sentencing regarding the court's decision to:

(1) Grant or deny probation.

(2) Impose the lower or upper prison term.

(3) Impose concurrent or consecutive sentences.

(4) Determine whether or not to impose an enhancement where that determination is permitted by law.

(b) The adoption of rules standardizing the minimum content and the sequential presentation of material in probation officer reports submitted to the court.

(c) This section shall become operative on January 1, 2009.

SEC. 6. (a) The Department of Corrections and Rehabilitation shall, commencing July 1, 2007, post on its Internet Web site, biannual updates for that calendar year of the number of felons admitted to state prison with at least one upper term sentence.

(b) On or before January 1, 2008, the Judicial Council shall advise the Legislature on the implementation of the provisions of the act adding this paragraph, including, but not limited to, the development of revised rules of court and any relevant information concerning implementation consequences relating to the effect of this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to respond to the United States Supreme Court decision in Cunningham v. California and provide for stability in California's criminal justice system, it is necessary that this act take effect immediately.

CHAPTER 4

An act relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 10, 2007. Filed with Secretary of State April 10, 2007.]

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

SECTION 1. This act is known, and may be cited as, The 2016 Olympic Games and Paralympic Games Act.

SEC. 2. For purposes of this act:

(a) "Applicant committee agreement" means agreements to be entered into between the Organizing Committee for the Olympic Games (OCOG) and the United States Olympic Committee (USOC) if, and upon, the USOC's selection on about April 14, 2007, of the City of Los Angeles as the official United States candidate city.

(b) "Bid committee agreement" means agreements entered into between the OCOG and the USOC governing the OCOG and the bid process.

(c) "Endorsing municipality" means the City of Los Angeles, which has authorized a bid by a OCOG for selection of the municipality as the site of the Olympic Games and Paralympic Games.

(d) "Games" means the 2016 Olympic Games.

(e) "Games support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by the Governor and containing terms permitted or required by this act.

(f) "Joinder agreement" means an agreement entered into by:

(1) The Governor, on behalf of this state, and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of the games.

(2) The endorsing municipality and a site selection organization setting out representations and assurances by the endorsing municipality in connection with the selection of a site in this state for the location of the games.

(g) "Joinder undertaking" means an agreement entered into by:

(1) The Governor, on behalf of this state, and a site selection organization that the state will execute a joinder agreement in the event that the site selection organization selects a site in this state for the games.

(2) The endorsing municipality and a site selection organization that the endorsing municipality will execute a joinder agreement in the event that the site selection organization selects a site in this state for the games.

(h) "OCOG" means a nonprofit corporation, or its successor in interest, that:

(1) Has been authorized by the endorsing municipality to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site for the games.

(2) With the authorization of the endorsing municipality, has executed the bid committee agreement with a site selection organization regarding a bid to host the games.

(i) "Site selection organization" means the United States Olympic Committee, the International Olympic Committee, the International Paralympic Committee, all three or some combination, as applicable.

SEC. 3. The Legislature finds and declares all of the following:

(a) The purpose of this act is to provide assurances required by a site selection organization sponsoring the games.

(b) The Southern California Committee for the Olympic Games (SCCOG) has submitted a bid to the United States Olympic Committee to host the games in the Los Angeles area, with the City of Los Angeles as the official candidate city.

(c) Hosting the games in the Los Angeles area is expected to generate billions of dollars for the regional economy. SCCOG has developed a self-sufficient bid for financing games that is based on realistic and conservative revenue scenarios. SCCOG has budgeted sufficient funds to reimburse security and other service costs provided by local regional governments during the games.

(d) SCCOG plans to host an environmentally responsible games; has committed to sports and recreational opportunities for young people throughout the Los Angeles area by planning to generate a legacy for youth programs and other sports purposes in California with excess revenues from the games; and plans to develop and implement a unique and broad-based, statewide cultural program.

(e) SCCOG has involved athletes, sports professionals, environmentalists, business and financial experts, nonprofit organizations, youth service leaders, and individuals who represent the entire diversity of the Los Angeles area in its bid and board of directors.

(f) Los Angeles is one of two remaining bid cities throughout the country to be evaluated by the United States Olympic Committee (USOC) to be the United States candidate city for the games. SCCOG has submitted a bid to the USOC on behalf of Los Angeles to host sporting events for the games in Los Angeles, San Francisco, San Diego, Anaheim, Arcadia, Carson, Inglewood, Irvine, Long Beach, Monterey

Park, Pasadena, Pomona, San Dimas, San Juan Capistrano, and several other cities and counties. The USOC requires that all bid states, bid cities, and bid committees execute certain agreements including the joinder undertaking, which joinder undertaking must be executed on or before March 31, 2007.

(g) SCCOG expects that if Los Angeles is chosen as the host city, and once the games have concluded, there will be net revenue exceeding expenses that can be devoted to legacy programs for youth and citizens of California.

SEC. 4. (a) The Governor may agree, in accordance with law and subject to Sections 5 and 6 of this act, in a joinder undertaking entered into with a site selection organization that:

(1) The Governor shall execute a joinder agreement if the site selection organization selects a site in this state for the games.

(2) The state shall refrain, during the period, or any portion thereof, between the execution of the joinder undertaking and award by the International Olympic Committee (IOC) of the games to a host city, from becoming a party to or approving or consenting to any act, contract, commitment, or other action contrary to, or which might affect, any of the obligations stipulated in the joinder agreement.

(3) The Governor may agree that any dispute in connection with the joinder undertaking arising during the period between the execution of the joinder undertaking and the IOC's award of the games to a host city shall be definitively settled as provided in the bid committee agreement.

(b) The Governor may agree in a joinder agreement that the state shall, in accordance with law and subject to Sections 5 and 6 of this act, do the following:

(1) Provide or cause to be provided any or all of the state government funding, facilities, and other resources specified in the OCOG's bid to host the games.

(2) The state will be liable, solely by means of the funding mechanism established by Sections 5 and 6 of this act, for:

(A) Obligations of the OCOG to a site selection organization, including obligations indemnifying the site selection organization against claims of and liabilities to third parties arising out of or relating to the games.

(B) Any financial deficit relating to the OCOG or the games.

(3) The state's liability shall not exceed the amount of funds appropriated to the Olympic Games Trust Fund established in Section 5 of this act. Any liability above this amount shall be the responsibility of the OCOG.

(4) Acknowledge that the OCOG will be bound by a series of agreements with the site selection organization as set forth in the joinder agreement.

(C) The Governor shall execute a joinder undertaking and a joinder agreement, provided the parties conform with this act.

(D) A games support contract may contain any additional provisions the Governor requires in order to carry out the purposes of this act.

SEC. 5. (a) There is hereby established in the State Treasury a special fund to be known as the "Olympic Games Trust Fund."

(b) The state may choose to fund the Olympic Games Trust Fund in any manner it considers appropriate, and at the time or times the state determines necessary. It is the intent of the Legislature that the funding mechanism for the fund shall be determined on or about the time of the selection of the endorsing municipality as the host city by the International Olympic and Paralympic Committees.

(c) The funds in the trust fund may be used only for the sole purpose of fulfilling the obligations of the state under a games support contract to provide adequate security as described in Section 6.

(d) No additional state funds shall be deposited into the Olympic Games Trust Fund once the Director of Finance determines that the account has achieved, or is reasonably expected to otherwise accrue, a sufficient balance to provide adequate security, acceptable to the site selection organization, to demonstrate the state's ability to fulfill its obligations under a games support contract, or any other agreement, to indemnify and insure up to two hundred fifty million dollars ($250,000,000) of any net financial deficit and general liability resulting from the conduct of the games.

(e) If the endorsing municipality is selected by the site selection organization as the host city for the games, the Olympic Games Trust Fund shall be maintained until a determination by the Department of Finance is made that the state's obligations under a games support contract, or any other agreement, to indemnify and insure against any net financial deficit and general liability resulting from the conduct of the games are satisfied and concluded, at which time the trust fund shall be terminated. If the endorsing municipality in the State of California is not selected by the United States Olympic Committee as the United States candidate city to host the games, or if the endorsing municipality is not selected by the IOC as the host city for the games, the Olympic Games Trust Fund shall be immediately terminated.

(f) Upon the termination of the Olympic Games Trust Fund, all sums earmarked, transferred, or contained in the fund, along with any investment earnings retained in the fund, shall immediately revert to the General Fund.

SEC. 6. (a) Any moneys deposited, transferred, or otherwise contained in the Olympic Games Trust Fund established in Section 5 shall be, upon appropriation by the Legislature, used for the sole purpose of obtaining adequate security, acceptable to the United States Olympic Committee and the International Olympic and Paralympic Committees, to demonstrate the state's ability to fulfill its obligations under a games support contract to indemnify and insure up to two hundred fifty million dollars ($250,000,000) of any general liability and net financial deficit resulting from the conduct of the games. The security may be provided by moneys contained in the trust fund as provided in Section 5 of this act, or by insurance coverage, letters of credit, or other acceptable secured instruments purchased or secured by the moneys, or by any combination thereof. In no event may the liability of the state under all games support contracts, any other agreements related to the conduct of the games, and all financial obligations of the state otherwise arising under this act, exceed two hundred fifty million dollars ($250,000,000) in the aggregate.

(b) Obligations authorized by this act shall be payable solely from the Olympic Games Trust Fund. Neither the full faith and credit nor the taxing power of the state are or may be pledged for any payment under any obligation authorized by this act.

SEC. 7. The state shall be the payer of last resort with regard to any net financial deficit as defined in this act. The security provided pursuant to this act may not be accessed to cover any general liability and net financial deficit indemnified by the state under the games support contract until:

(a) The security provided by the OCOG is fully expended and exhausted.

(b) Any security provided by any other person or entity is fully expended and exhausted.

(c) The limits of available insurance policies covering any general liability obligation and the net financial deficit, or any expense or liability used in determining the net financial deficit, have been fully expended and exhausted.

(d) Payment has been sought by the OCOG from all third parties owing moneys or otherwise liable to the OCOG.

SEC. 8. The OCOG shall list the state as an additional insured on any policy of insurance purchased by the OCOG to be in effect in connection with the preparation for and conduct of the games.

SEC. 9. The OCOG may not engage in any conduct that reflects unfavorably upon this state, the endorsing municipality, or the games, or that is contrary to law or to the rules and regulations of the United States Olympic Committee and the International Olympic and Paralympic Committees.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to meet deadlines for the bid process for the 2016 Olympic Games, it is necessary that this act go into immediate effect.

CHAPTER 5

An act to amend Section 65584 of, and to add and repeal Section 65584.08 of, the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 10, 2007. Filed with Secretary of State April 10, 2007.]

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

SECTION 1. Section 65584 of the Government Code is amended to read:

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a

council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

(e) For purposes of this section, "household income levels" are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(f) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the

California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 2. Section 65584.08 is added to the Government Code, to read:

65584.08. (a) For the purposes of this section the "association" is the Southern California Association of Governments.

(b) For the fourth revision of the housing element pursuant to Section 65588 within the region of the association, the existing and projected need for housing for the region as a whole and each jurisdiction within the region shall be determined according to the provisions of this article except as those provisions are specifically modified by this section.

(c) The existing and projected housing need for the region shall be determined in the following manner:

(1) The association shall develop an integrated long-term growth forecast by five-year increments. The growth forecast is not a regional housing needs allocation plan.

(2) The forecast shall consist of the following three major variables by geographic area throughout the region:

(A) Population.

(B) Employment.

(C) Households.

(3) The association shall convert households into housing units using replacement rates from the Department of Finance, and county level vacancy rates, by weighing vacancy rates of for-sale and for-rent units.

(4) The association shall transmit the forecast to the department with the following variables:

(A) Population.

(B) Employment.

(C) Households.

(D) Housing units.

(E) Household formation ratios.

(F) Replacement rates.

(G) Owner and renter vacancy rates.

(5) Upon receiving the forecast, the department shall determine the existing and projected housing need for the region in accordance with paragraph (2) of subdivision (c) of, and with subdivision (d) of, Section 65584.01.

(d) The association shall conduct a public workshop for the purpose of surveying its member jurisdictions pursuant to subdivision (b) of Section 65584.04. Not less than 30 days prior to the date of commencement of the public workshop, the association shall notify affected jurisdictions about the manner in which it proposes to consider the factors specified in subdivision (d) of Section 65584.04 in the housing allocation process. Local governments may submit information about

the factors before the workshop for consideration by the association and incorporation into the discussion of the methodology at the workshop.

(e) The association shall delegate development of the housing need allocation plan to the subregional entities, if the association and the subregional entities agree in writing to that delegation and the association ensures that the total regional housing need, by income category, is maintained.

(f) The association shall conduct a minimum of 14 public workshops to discuss the regional growth forecast and the methodology, including the factors, by which housing needs are proposed to be allocated to subregions, or, in the absence of a subregion, to individual jurisdictions. The workshops shall also present opportunities for jurisdictions and members of the public or relevant stakeholders to provide information to the association on local conditions and factors. Following the workshops, and concurrent with the adoption of its draft housing allocation plan, the association shall describe the following:

(1) The manner in which the plan is consistent with the housing, employment, transportation, and environmental needs of the region.

(2) The manner in which the methodology that produced the plan complies with subdivision (e) of Section 65584.04.

(3) The manner in which the information received in the public workshops was considered in the methodology used to allocate the regional housing need.

(g) Following the adoption of the draft housing allocation plan, a local government may request from the association or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in subdivision (d) of Section 65584.04, including any information submitted by the local government pursuant to subdivision (d). The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and shall be supported by adequate documentation. The association or delegate subregion, as applicable, shall establish a timeline for accepting and reviewing revision requests. However, revision requests shall not be accepted after the deadline for filing an appeal pursuant to subdivision (i). The association or delegate subregion shall respond to the request in writing no later than the close of the appeal process, and shall describe the rationale for its decision.

(h) Both the methodology and allocation process shall consider the factors listed under subdivision (d) of Section 65584.04 and promote the goals and objectives of subdivision (d) of Section 65584 and the regional transportation plan growth forecasting process to integrate housing planning with projected population growth and transportation. The association shall complete the final housing need allocation plan on

or before June 30, 2007. It is the intent of the Legislature that the housing element update deadlines, as required under Section 65588, and as modified by the department under paragraph (2) of subdivision (a) of Section 65584.02, will not be extended. The association shall submit a report to the Legislature on or before March 30, 2007, describing the progress it has made in completing the final need allocation plan.

(i) A city or county may file one appeal of its draft allocation to the association, or a delegate subregion, pursuant to subdivision (e) of Section 65584.05, based upon any of the following criteria:

(1) The association or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (d), or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The association or delegate subregion, as applicable, failed to determine the local government's share of the regional housing need in accordance with the information described in, and the methodology established pursuant to subdivision (f).

(j) A city or county shall not be allowed to file more than one appeal under subdivision (i), and no appeals may be filed relating to any adjustments made pursuant to subdivision (g) of Section 65584.05.

(k) The final allocation plan shall be subject to the provisions of subdivision (h) of Section 65584.05.

(*l*) The final allocation plan adopted by the association shall ensure that the total regional housing need, by income category, as determined under subdivision (c), is maintained. The resolution adopted by the association approving the final housing need allocation plan shall show how the plan:

(1) Is consistent with the objectives of this section and article.

(2) Is consistent with the pending update of the regional transportation plan.

(3) Takes into account the information provided to the association by its member jurisdictions and members of the public pursuant to subdivisions (d) and (f).

(m) 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. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Southern California Association of Governments, at the earliest possible time, to develop a final allocation plan for

distributing the existing and projected regional housing need to cities and counties within its jurisdiction on or before the June 30, 2007, deadline imposed under existing law, it is necessary that this act take effect immediately.

CHAPTER 6

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 24, 2007. Filed with Secretary of State April 24, 2007.]

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

SECTION 1. This act shall be known and may be cited as the First Validating Act of 2007.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.
Community rehabilitation districts.
Community services districts.
Conservancy districts.
Cotton pest abatement districts.
County boards of education.
County drainage districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County sanitation districts.
County service areas.
County transportation commissions.
County water agencies.
County water authorities.
County water districts.
County waterworks districts.
Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Distribution districts of any public body.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.

Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement and vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.

Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and

privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of

issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2

of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 7

An act to add Chapter 3.2.1 (commencing with Section 15819.40), Chapter 3.2.2 (commencing with Section 15819.41), Chapter 3.11 (commencing with Section 15820.90), and Chapter 3.12 (commencing with Section 15820.91), to Part 10b of Division 3 of Title 2 of the Government Code, to amend Sections 7000, 7003, and 7003.5 of, to amend, repeal, and add Section 11191 of, to add Sections 2054.2, 2061, 2062, 2713.2, 3073, 6140, 6141, 7004.5, 7021, 10007, and 13602.1 to, to add Article 5 (commencing with Section 2694) to Chapter 4 of, and Article 2.5 (commencing with Section 3020) to Chapter 8 of, Title 1 of Part 3 of, to add Chapter 9 (commencing with Section 3105) to Title 1 of, and Chapter 9.8 (commencing with Section 6270) to Title 7 of, Part 3 of, and to repeal Section 7014 of, the Penal Code relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 3, 2007. Filed with Secretary of State May 3, 2007.]

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

SECTION 1. This act shall be known, and may be cited, as the Public Safety and Offender Rehabilitation Services Act of 2007.

SEC. 2. Chapter 3.2.1 (commencing with Section 15819.40) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.2.1. REVENUE BOND FINANCING OF PRISON CONSTRUCTION — PHASE I

15819.40. (a) (1) (A) The Department of Corrections and Rehabilitation shall design, construct, or renovate prison housing units,

prison support buildings, and programming space in order to add up to 7,484 beds at the following prison facilities:

(i) Pleasant Valley State Prison.

(ii) Pelican Bay State Prison.

(iii) California State Prison, Los Angeles County.

(iv) Calipatria State Prison.

(v) Centinela State Prison.

(vi) Salinas Valley State Prison.

(vii) Kern Valley State Prison.

(viii) Wasco State Prison.

(ix) North Kern State Prison.

(x) Mule Creek State Prison.

(B) After reporting to the Joint Legislative Budget Committee that site assessments are complete at other prison facilities, the department shall design, construct, or renovate prison housing units, prison support buildings, and programming space in order to add up to 4,516 beds. The reporting requirements set forth in Sections 7000 to 7003.5, inclusive, of the Penal Code shall apply to each project constructed or renovated pursuant to this section.

(2) Any new beds constructed pursuant to this section shall be supported by rehabilitative programming for inmates, including, but not limited to, education, vocational programs, substance abuse treatment programs, employment programs, and prerelease planning.

(3) The purpose of beds constructed pursuant to this section is to replace the temporary beds currently in use, and they are not intended to house additional inmates. For the purposes of this section, "temporary beds" shall be defined as those that are placed in gymnasiums, classrooms, hallways, or other public spaces that were not constructed for the purpose of housing inmates.

(b) The Department of Corrections and Rehabilitation may acquire land, design, construct, and renovate reentry program facilities to provide housing for 6,000 inmates as authorized in Chapter 9.8 (commencing with Section 6271) of the Penal Code.

(c) The Department of Corrections and Rehabilitation is authorized to construct and establish new buildings at facilities under the jurisdiction of the department to provide medical, dental, and mental health treatment or housing for 6,000 inmates.

15819.401. The scope and costs of the projects authorized by this chapter shall be subject to approval and administrative oversight by the State Public Works Board, including augmentations, pursuant to Sections 13332.11 and 13332.19.

15819.402. For all projects approved for financing by the board pursuant to Section 15819.40, the board may borrow funds for project

costs, including studies, preliminary plans and working drawings, construction, and construction-related costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. Project funds expended prior to project approval by the board shall not be reimbursable from the proceeds of the bonds.

15819.403. (a) The board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to this part to finance the design, construction, and the costs of interim financing of the projects authorized in Section 15819.40. Authorized costs for design, construction, and construction-related costs for all projects approved for financing by the board shall not exceed one billion eight hundred million dollars ($1,800,000,000) for subdivision (a) of Section 15819.40, nine hundred seventy-five million dollars ($975,000,000) for subdivision (b) of Section 15819.40, and eight hundred fifty-seven million one hundred thousand dollars ($857,100,000) for subdivision (c) of Section 15819.40.

(b) Notwithstanding Section 13340, funds derived from interim financing, revenue bonds, negotiable notes, or negotiable bond anticipation notes issued pursuant to this chapter are hereby continuously appropriated to the board on behalf of the Department of Corrections and Rehabilitation for the purposes specified in Section 15819.40.

(c) For the purposes of this section, "construction-related costs" shall include mitigation costs of local government and school districts and shall be made available pursuant to subdivisions (c) and (d) of Section 7005.5 of the Penal Code. It is the intent of the Legislature that any payments made for mitigation shall be made in a timely manner.

15819.404. Notwithstanding Section 15819.403, the amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the following:

(a) The cost of design, construction or construction management and supervision, and other costs related to the design and construction of the facilities, including augmentations.

(b) Sums necessary to pay interim financing.

(c) In addition to the amount authorized by Section 15819.403, any additional amount as may be authorized by the board to establish a reasonable construction reserve and to pay the costs of financing, including the payment of interest during acquisition or construction of the project, the cost of financing a debt-service reserve fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest payable on any interim loan for the facility from the General Fund or the Pooled Money Investment Account pursuant to Sections 16312 and 16313.

SEC. 3. Chapter 3.2.2 (commencing with Section 15819.41) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

Chapter 3.2.2. Revenue Bond Financing of Prison Construction — Phase II

15819.41. (a) The Department of Corrections and Rehabilitation is authorized to design, construct, or renovate prison housing units, prison support buildings, and programming space in order to add 4,000 beds at existing prison facilities. This authorization is in addition to the authorization in subdivision (a) of Section 15819.40. Any new beds constructed shall be supported by rehabilitative programming for inmates, including, but not limited to, education, vocational programs, substance abuse treatment programs, employment programs, and prerelease planning.

(b) The Department of Corrections and Rehabilitation is authorized to design, construct, and establish new buildings at facilities under the jurisdiction of the department to provide medical, dental, and mental health treatment or housing for 2,000 inmates. This authorization is in addition to the authorization in subdivision (c) of Section 15819.40.

(c) The Department of Corrections and Rehabilitation is authorized to construct, establish, and operate reentry program facilities throughout the state that will house up to an additional 10,000 inmates pursuant to Section 6271.1 of the Penal Code.

15819.411. The scope and costs of the projects authorized by this chapter shall be subject to approval and administrative oversight by the State Public Works Board, including augmentations, pursuant to Sections 13332.11 and 13332.19.

15819.412. For all projects approved for financing by the board pursuant to Section 15819.41, the board may borrow funds for project costs, including studies, preliminary plans and working drawings, construction, and construction-related costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. Project funds expended prior to project approval by the board shall not be reimbursable from the proceeds of the bonds.

15819.413. (a) The board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to this part to finance the design, construction, and the costs of interim financing of the projects authorized in Section 15819.41. Authorized costs for design, construction, and construction-related costs, for all projects approved for financing by the board shall not exceed six hundred million dollars ($600,000,000) for subdivision (a) of Section 15819.41, two hundred eighty-five million seven hundred thousand dollars ($285,700,000) for subdivision (b) of Section 15819.41, and one billion six hundred twenty-five million dollars ($1,625,000,000) for subdivision (c) of Section 15819.41.

(b) Notwithstanding Section 13340, funds derived from interim financing, revenue bonds, negotiable notes, or negotiable bond anticipation notes issued pursuant to this chapter are hereby continuously appropriated to the board on behalf of the Department of Corrections and Rehabilitation for the purposes specified in Section 15819.41.

(c) For the purposes of this section, "construction-related costs" shall include mitigation costs of local government and school districts and shall be made available pursuant to subdivisions (c) and (d) of Section 7005.5 of the Penal Code. It is the intent of the Legislature that any payments made for mitigation shall be made in a timely manner.

15819.414. Notwithstanding Section 15819.413, the amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the following:

(a) The cost of design, construction or construction management and supervision, and other costs related to the design and construction of the facilities, including augmentations.

(b) Sums necessary to pay interim financing.

(c) In addition to the amount authorized by Section 15819.413, any additional amount as may be authorized by the board to establish a reasonable construction reserve and to pay the costs of financing, including the payment of interest during acquisition or construction of the project, the cost of financing a debt-service reserve fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest payable on any interim loan for the facility from the General Fund or the Pooled Money Investment Account pursuant to Sections 16312 and 16313.

15819.417. The State Public Works Board may not release any funds pursuant to this chapter until the panel created pursuant to Section 7021 of the Penal Code has certified that conditions listed in that section have been met. The authority provided by this chapter shall expire on January 1, 2014, and no project shall be commenced after that date, but projects already commenced may be completed.

SEC. 4. Chapter 3.11 (commencing with Section 15820.90) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

Chapter 3.11. Financing of County Jail Facilities

15820.90. For the purposes of this chapter, "participating county" means any county, or regional consortium of counties, within the state that has been certified to the State Public Works Board (SPWB) by the Department of Corrections and Rehabilitation (CDCR) as having satisfied all of the requirements set forth in Section 15820.906 for financing a local jail facility pursuant to this chapter.

15820.901. (a) The CDCR, a participating county, and the SPWB are authorized to acquire, design, and construct, a local jail facility approved by the Corrections Standards Authority (CSA) pursuant to Section 15820.906, or a site or sites owned by, or subject to a lease or option to purchase held by a participating county. The ownership interest of a participating county in the site or sites for a local jail facility must be determined by the SPWB to be adequate for purposes of its financing in order to be eligible under this chapter.

(b) Notwithstanding Section 15815 of the Government Code, a participating county may acquire, design, or construct the local jail facility in accordance with its local contracting authority. Notwithstanding Section 14951, the participating county may assign an inspector during the construction of the project.

(c) The CDCR, a participating county and the SPWB shall enter into a construction agreement for these projects that shall provide, at a minimum, performance expectations of the parties related to the acquisition, design, construction, or renovation of the local jail facility, guidelines and criteria for use and application of the proceeds of revenue bonds, notes, or bond anticipation notes issued by the SPWB to pay for the cost of the approved local jail facility project and ongoing maintenance and staffing responsibilities for the term of the financing.

(d) The construction agreement shall include a provision that the participating county agrees to indemnify, defend, and save harmless the State of California for any and all claims and losses arising out of the acquisition, design, and construction of the project. The construction agreement may also contain additional terms and conditions that facilitate the financing by the SPWB.

(e) The scope and cost of these approved local jail facility projects shall be subject to approval and administrative oversight by the SPWB.

(f) For purposes of compliance with the California Environmental Quality Act (Division 13 of the Public Resources Code (commencing with Section 210000)), neither the SPWB nor the CDCR shall be deemed a lead or responsible agency; the participating county is the lead agency.

15820.902. Upon a participating county's receipt of responsive construction bids, the SPWB and the CDCR may borrow funds for project costs after the project has been certified pursuant to Section 15820.90 from the Pooled Money Investment Account pursuant to Sections 16312 and 16313, or from any other appropriate source. In the event any of the revenue bonds, notes or bond anticipation notes authorized by this chapter are not sold, the CDCR shall commit a sufficient amount of its support appropriation to repay any loans made for an approved project.

15820.903. (a) The SPWB may issue up to seven hundred fifty million dollars ($750,000,000) in revenue bonds, notes, or bond

anticipation notes, pursuant to Chapter 5 of Part 10b of Division 3 of Title 2 (commencing with Section 15830) to finance the acquisition, design, or construction, and a reasonable construction reserve, of approved local jail facilities described in Section 15820.901.

(b) Proceeds from the revenue bonds, notes, or bond anticipation notes may be utilized to reimburse a participating county for the costs of acquisition, preliminary plans, working drawings, and construction for approved projects.

(c) Notwithstanding Section 13340, funds derived pursuant to this section and Section 15820.902 are continuously appropriated for purposes of this chapter.

(d) This section shall become inoperative on June 30, 2017.

15820.905. With the consent of the SPWB, the CDCR, and a participating county are authorized to enter into leases or subleases, as lessor or lessee, for any property or approved project and are further authorized to enter into contracts or other agreements for the use, maintenance, and operation of the local jail facility in order to facilitate the financing authorized by this chapter. In those leases, subleases, or other agreements, the participating county shall agree to indemnify, defend, and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's use and occupancy of the local jail facility.

15820.906. (a) The CSA shall adhere to its duly adopted regulations for the approval or disapproval of local jail facilities. The CSA shall also consider cost-effectiveness in determining approval or disapproval. No state moneys shall be encumbered in contracts let by a participating county until final architectural plans and specifications have been approved by the CSA, and subsequent construction bids have been received. The review and approval of plans, specifications, or other documents by the CSA are for the purpose of ensuring proper administration of moneys and determination of whether the project specifications comply with law and regulation. The CSA may require changes in construction materials to enhance safety and security if materials proposed at the time of final plans and specifications are not essential and customary as used statewide for facilities of the same security level. Participating counties are responsible for the acquisition, design, construction, staffing, operation, repair, and maintenance of the project.

(b) The CSA shall establish minimum standards, funding schedules and procedures, which shall take into consideration, but not be limited to, the following:

(1) Certification by a participating county of project site control through either fee simple ownership of the site or comparable long-term

possession of the site, and right of access to the projects sufficient to assure undisturbed use and possession.

(2) Documentation of need for the project.

(3) A written project proposal.

(4) Submittal of a staffing plan for the project, including operational cost projections and documentation that the local jail facility will be able to be safety staffed and operated within 90 days of completion.

(5) Submittal of architectural drawings, which shall be approved by the CSA for compliance with minimum adult detention facility standards and which shall also be approved by the State Fire Marshal for compliance with fire safety and life safety requirements.

(6) Documentation evidencing the filing by a participating county of a final notice of determination on its environmental impact report.

(7) Provisions intended to maintain the tax-exempt status of the bonds, notes, or bond anticipation notes issued by the SPWB.

15820.907. (a) Participating county matching funds for projects funded under this chapter shall be a minimum of 25 percent of the total project costs. The CSA may reduce matching fund requirements for participating counties with a general population below 200,000 upon petition by a participating county to the CSA requesting a lower level of matching funds.

(b) The CDCR and CSA shall give funding preference to counties that assist the state in siting reentry facilities, pursuant to Section 6270.

(c) The CDCR and CSA shall give funding preference to counties that assist the state in siting mental health day treatment and crisis care, pursuant to Section 3073 of the Penal Code, and to counties who provide a continuum of care so that parolees with mental health and substance abuse needs can continue to receive services at the conclusion of their period of parole.

SEC. 5. Chapter 3.12 (commencing with Section 15820.91) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

Chapter 3.12. Financing of County Jail Facilities

15820.91. For the purposes of this chapter, "participating county" means any county, or regional consortium of counties, within the state that has been certified to the State Public Works Board (SPWB) by the Department of Corrections and Rehabilitation (CDCR) as having satisfied all of the requirements set forth in Section 15820.916 for financing a local jail facility pursuant to this chapter.

15820.911. (a) The CDCR, a participating county, and the SPWB are authorized to acquire, design, and construct, a local jail facility approved by the Corrections Standards Authority (CSA) pursuant to

Section 15820.906, or a site or sites owned by, or subject to a lease or option to purchase held by a participating county. The ownership interest of a participating county in the site or sites for a local jail facility must be determined by the SPWB to be adequate for purposes of its financing in order to be eligible under this chapter.

(b) Notwithstanding Section 15815, a participating county may acquire, design, or construct the local jail facility in accordance with its local contracting authority. Notwithstanding Section 14951, the participating county may assign an inspector during the construction of the project.

(c) The CDCR, a participating county and the SPWB shall enter into a construction agreement for these projects that shall provide, at a minimum, performance expectations of the parties related to the acquisition, design, construction, or renovation of the local jail facility, guidelines and criteria for use and application of the proceeds of revenue bonds, notes, or bond anticipation notes issued by the SPWB to pay for the cost of the approved local jail facility project and ongoing maintenance and staffing responsibilities for the term of the financing.

(d) The construction agreement shall include a provision that the participating county agrees to indemnify, defend, and save harmless the State of California for any and all claims and losses arising out of the acquisition, design, and construction of the project. The construction agreement may also contain additional terms and conditions that facilitate the financing by the SPWB.

(e) The scope and cost of these approved local jail facility projects shall be subject to approval and administrative oversight by the SPWB.

(f) For purposes of compliance with the California Environmental Quality Act (Division 13 of the Public Resources Code (commencing at Section 210000)), neither the SPWB nor the CDCR shall be deemed a lead or responsible agency; the participating county is the lead agency.

15820.912. Upon a participating county's receipt of responsive construction bids, the SPWB and the CDCR may borrow funds for project costs after the project has been certified pursuant to Section 15820.91 from the Pooled Money Investment Account pursuant to Sections 16312 and 16313, or from any other appropriate source. In the event any of the revenue bonds, notes, or bond anticipation notes authorized by this chapter are not sold, the CDCR shall commit a sufficient amount of its support appropriation to repay any loans made for an approved project.

15820.913. (a) The SPWB may issue up to four hundred seventy million dollars ($470,000,000) in revenue bonds, notes, or bond anticipation notes, pursuant to Chapter 5 of Part 10b of Division 3 of Title 2 (commencing with Section 15830) to finance the acquisition,

design, or construction, and a reasonable construction reserve, of approved local jail facilities described in Section 15820.911.

(b) Proceeds from the revenue bonds, notes, or bond anticipation notes may be used to reimburse a participating county for the costs of acquisition, preliminary plans, working drawings, and construction for approved projects.

(c) Notwithstanding Section 13340, funds derived pursuant to this section and Section 15820.902 are continuously appropriated for purposes of this chapter.

15820.915. With the consent of the SPWB, the CDCR, and a participating county are authorized to enter into leases or subleases, as lessor or lessee, for any property or approved project and are further authorized to enter into contracts or other agreements for the use, maintenance, and operation of the local jail facility in order to facilitate the financing authorized by this chapter. In those leases, subleases, or other agreements, the participating county shall agree to indemnify, defend and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's use and occupancy of the local jail facility.

15820.916. (a) The CSA shall adhere to its duly adopted regulations for the approval or disapproval of local jail facilities. The CSA shall also consider cost-effectiveness in determining approval or disapproval. No state moneys shall be encumbered in contracts let by a participating county until final architectural plans and specifications have been approved by the CSA, and subsequent construction bids have been received. The review and approval of plans, specifications, or other documents by the CSA are for the purpose of ensuring proper administration of moneys and determination of whether the project specifications comply with law and regulation. The CSA may require changes in construction materials to enhance safety and security if materials proposed at the time of final plans and specifications are not essential and customary as used statewide for facilities of the same security level. Participating counties are responsible for the acquisition, design, construction, staffing, operation, repair, and maintenance of the project.

(b) The CSA shall establish minimum standards, funding schedules, and procedures, which shall take into consideration, but not be limited to, the following:

(1) Certification by a participating county of project site control through either fee simple ownership of the site or comparable long-term possession of the site, and right of access to the projects sufficient to assure undisturbed use and possession.

(2) Documentation of need for the project.

(3) A written project proposal.

(4) Submittal of a staffing plan for the project, including operational cost projections and documentation that the local jail facility will be able to be safety staffed and operated within 90 days of completion.

(5) Submittal of architectural drawings, which shall be approved by the CSA for compliance with minimum adult detention facility standards and which shall also be approved by the State Fire Marshal for compliance with fire safety and life safety requirements.

(6) Documentation evidencing the filing by a participating county of a final notice of determination on its environmental impact report.

(7) Provisions intended to maintain the tax-exempt status of the bonds, notes, or bond anticipation notes issued by the SPWB.

15820.917. (a) Participating county matching funds for projects funded under this chapter shall be a minimum of 25 percent of the total project costs. The CSA may reduce matching fund requirements for participating counties with a general population below 200,000 upon petition by a participating county to the CSA requesting a lower level of matching funds.

(b) The CDCR and CSA shall give funding preference to counties that assist the state in siting reentry facilities, pursuant to Section 6270.

(c) The department shall give funding preference to counties that assist the state in siting mental health day treatment and crisis care, pursuant to Section 3073 of the Penal Code, and to counties who provide a continuum of care so that parolees with mental health and substance abuse needs can continue to receive services at the conclusion of their period of parole.

15820.918. The CDCR and CSA may not award funds under this chapter until the panel created pursuant to Section 7021 of the Penal Code has certified that all of the following conditions have been met:

(a) At least 4,000 of the local jail beds from Chapter 3.11 (commencing with Section 15820.90) are under construction or sited.

(b) At least 2,000 of the original reentry beds are under construction or sited.

SEC. 6. Section 2054.2 is added to the Penal Code, to read:

2054.2. The Department of Corrections and Rehabilitation shall determine and implement a system of incentives to increase inmate participation in, and completion of, academic and vocational education, consistent with the inmate's educational needs as identified in the assessment performed pursuant to Section 3020, including, but not limited to, a literacy level specified in Section 2053.1, a high school diploma or equivalent, or a particular vocational job skill. These incentives may be consistent with other incentives provided to inmates who participate in work programs.

SEC. 7. Section 2061 is added to the Penal Code, to read:

2061. (a) The Department of Corrections and Rehabilitation shall develop and implement, by January 15, 2008, a plan to address management deficiencies within the department. The plan should, at a minimum, address all of the following:

(1) Filling vacancies in management positions within the department.

(2) Improving lines of accountability within the department.

(3) Standardizing processes to improve management.

(4) Improving communication within headquarters, between headquarters, institutions and parole offices, and between institutions and parole offices.

(5) Developing and implementing more comprehensive plans for management of the prison inmate and parole populations.

(b) The department may contract with an outside entity that has expertise in management of complex public and law enforcement organizations to assist in identifying and addressing deficiencies.

SEC. 8. Section 2062 is added to the Penal Code, to read:

2062. (a) The Department of Corrections and Rehabilitation shall develop and implement a plan to obtain additional rehabilitation and treatment services for prison inmates and parolees. The plan shall include, but is not limited to, all of the following:

(1) Plans to fill vacant state staff positions that provide direct and indirect rehabilitation and treatment services to inmates and parolees.

(2) Plans to fill vacant staff positions that provide custody and supervision services for inmates and parolees.

(3) Plans to obtain from local governments and contractors services for parolees needing treatment while in the community and services that can be brought to inmates within prisons.

(4) Plans to enter into agreements with community colleges to accelerate training and education of rehabilitation and treatment personnel, and modifications to the licensing and certification requirements of state licensing agencies that can accelerate the availability and hiring of rehabilitation and treatment personnel.

(b) The department shall submit the plan and a schedule for implementation of its provisions to the Legislature by January 15, 2008.

SEC. 9. Section 2713.2 is added to the Penal Code, to read:

2713.2. The Department of Corrections and Rehabilitation shall examine and report to the Legislature on whether the provisions of existing law related to payments to inmates released from prison are hindering the success of parolees and resulting in their rapid return to prison for parole violations. The report shall specifically examine whether the costs of transportation of the inmate from prison to the parole location should be paid from the amounts specified in Section 2713.1 or whether

it should be paid separately by the department. The department shall submit its findings and recommendations to the Legislature on or before January 15, 2008.

SEC. 10. Article 5 (commencing with Section 2694) is added to Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:

Article 5. Substance Abuse Treatment

2694. The Department of Corrections and Rehabilitation shall expand substance abuse treatment services in prisons to accommodate at least 4,000 additional inmates who have histories of substance abuse. In determining the prisons in which these additional treatment services will be located, the department may consider efficiency and efficacy of treatment, availability of staff resources, availability of physical space, and availability of additional resources in surrounding communities to supplement the treatment. In addition, the department shall expand followup treatment services in the community in order to ensure that offenders who participate in substance abuse treatment while incarcerated in prison shall receive necessary followup treatment while on parole.

SEC. 11. Article 2.5 (commencing with Section 3020) is added to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

Article 2.5. Interdisciplinary Assessment of Inmates

3020. The Department of Corrections and Rehabilitation shall conduct assessments of all inmates that include, but are not limited to, data regarding the inmate's history of substance abuse, medical and mental health, education, family background, criminal activity, and social functioning. The assessments shall be used to place inmates in programs that will aid in their reentry to society and that will most likely reduce the inmate's chances of reoffending.

SEC. 12. Section 3073 is added to the Penal Code, to read:

3073. The Department of Corrections and Rehabilitation is hereby authorized to obtain day treatment, and to contract for crisis care services, for parolees with mental health problems. Day treatment and crisis care services should be designed to reduce parolee recidivism and the chances that a parolee will return to prison. The department shall work with counties to obtain day treatment and crisis care services for parolees with the goal of extending the services upon completion of the offender's period of parole, if needed.

SEC. 13. Chapter 9 (commencing with Section 3105) is added to Title 1 of Part 3 of the Penal Code, to read:

CHAPTER 9. PRISON TO EMPLOYMENT

3105. The Department of Corrections and Rehabilitation shall develop an Inmate Treatment and Prison-to-Employment Plan. The plan should evaluate and recommend changes to the Governor and the Legislature regarding current inmate education, treatment, and rehabilitation programs to determine whether the programs provide sufficient skills to inmates that will likely result in their successful employment in the community, and reduce their chances of returning to prison after release to parole. The department shall report the status of the development of the plan on or before October 1, 2007, again on or before January 15, 2008, and shall submit the final plan by April 1, 2008. The department may use resources of other state or local agencies, academic institutions, and other research organizations as necessary to develop the plan.

SEC. 14. Section 6140 is added to the Penal Code, to read:

6140. There is in the Office of the Inspector General the California Rehabilitation Oversight Board (C-ROB). The board shall consist of the 11 members as follows:

(a) The Inspector General, who shall serve as chair.

(b) The Secretary of the Department of Corrections and Rehabilitation.

(c) The Superintendent of Public Instruction, or his or her designee.

(d) The Chancellor of the California Community Colleges, or his or her designee.

(e) The Director of the State Department of Alcohol and Drug Programs, or his or her designee.

(f) The Director of Mental Health, or his or her designee.

(g) A faculty member of the University of California who has expertise in rehabilitation of criminal offenders, appointed by the President of the University of California.

(h) A faculty member of the California State University, who has expertise in rehabilitation of criminal offenders, appointed by the Chancellor of the California State University.

(i) A county sheriff, appointed by the Governor.

(j) A county chief probation officer, appointed by the Senate Committee on Rules.

(k) A local government official who provides mental health, substance abuse, or educational services to criminal offenders, appointed by the Speaker of the Assembly.

SEC. 15. Section 6141 is added to the Penal Code, to read:

6141. The California Rehabilitation Oversight Board shall meet at least quarterly, and shall regularly examine the various mental health, substance abuse, educational, and employment programs for inmates and parolees operated by the Department of Corrections and

Rehabilitation. The board shall report to the Governor and the Legislature biannually, on January 15 and July 15, and may submit other reports during the year if it finds they are necessary. The reports shall include, but are not limited to, findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in rehabilitation services in the department, and levels of offender participation and success in the programs. The board shall also make recommendations to the Governor and Legislature with respect to modifications, additions, and eliminations of rehabilitation and treatment programs. In performing its duties, the board shall use the work products developed for the department as a result of the provisions of the 2006 Budget Act, including Provision 18 of Item 5225-001-0001.

SEC. 16. Chapter 9.8 (commencing with Section 6270) is added to Title 7 of Part 3 of the Penal Code, to read:

Chapter 9.8. Reentry Program Facilities

6270. The Legislature finds and declares the following:

(a) The continuity of services provided both before and after an inmate's release on parole will improve the parolee's opportunity for successful reintegration into society.

(b) Placing an inmate in a secure correctional facility within the community prior to parole into that community provides the opportunity for both parole officers and local law enforcement personnel to better coordinate supervision of that parolee.

6271. (a) The Department of Corrections and Rehabilitation is authorized to construct, establish, and operate reentry program facilities throughout the state that will house up to 6,000 inmates. These facilities shall be secure facilities of up to 500 beds each, house inmates within one year of being released or rereleased from custody, and, to the extent possible, be sited in urban locations.

(b) Reentry program facilities shall only be established in a city, county, or city and county that requests a reentry program facility, and the proposed location of the facility shall be identified by the city, county, or city and county.

6271.1. (a) The Department of Corrections and Rehabilitation is authorized to construct, establish, and operate reentry program facilities throughout the state that will house up to an additional 10,000 inmates, as provided for in subdivision (c) of Section 15819.41 of the Government Code. These facilities shall be secure facilities of up to 500 beds each, be for inmates within one year of being released or rereleased from custody, and, to the extent possible, be located in urban locations. This authorization is in addition to the authorization in Section 6271.

(b) Sections 6272 and 6273 shall also apply to this authorization.

6272. Reentry program facilities shall provide programming to inmates and parole violators tailored to the specific problems faced by this population when reintegrating into society. Persons housed in these facilities shall receive risk and needs assessments, case management services, and wraparound services that provide a continuity of support services between custody and parole.

6273. In the locations where a reentry program facility is established, the Department of Corrections and Rehabilitation shall develop a collaborative partnership with local government, local law enforcement, and community service providers.

SEC. 17. Section 7000 of the Penal Code is amended to read:

7000. (a) The Department of Corrections and Rehabilitation shall prepare plans for, and construct facilities and renovations included within, its master plan for which funds have been appropriated by the Legislature.

(b) "Master plan" means the department's "Facility Requirements Plan," dated April 7, 1980, and any subsequent revisions. The plan shall include the department's plans to remove temporary beds in dayrooms, gyms, and other areas.

SEC. 18. Section 7003 of the Penal Code is amended to read:

7003. For each facility or project included within its master plan, at least 30 days prior to submission of preliminary plans to the State Public Works Board, the department shall submit to the Joint Legislative Budget Committee all of the following:

(a) A preliminary plan submittal package, as defined by the State Administrative Manual.

(b) An estimate of the annual operating costs of the facility.

(c) A staffing plan for the operation of the facility.

(d) A plan for providing medical, mental health, and dental care to inmates.

(e) A plan for inmate programming at the facility, including education, work, and substance abuse programming.

If the committee fails to take any action with respect to the submitted plans within 45 days after submittal, this inaction shall be deemed to be approval for purposes of this section.

SEC. 19. Section 7003.5 of the Penal Code is amended to read:

7003.5. (a) The department shall provide the Joint Legislative Budget Committee with quarterly reports on the progress of funded projects consistent with the requirements outlined in the State Administrative Manual. This report shall include new prisons, projects to construct inmate housing and other buildings at, or within, existing prison facilities, prison medical, mental health, and dental facilities, reentry facilities, and infrastructure projects at existing prison facilities.

(b) On January 10 of each year, the department shall provide a report to the Joint Legislative Budget Committee that includes the status of each project that is part of the master plan, including projects planned, projects in preliminary planning, working, drawing and construction phases, and projects that have been completed. The report shall include new prisons; projects to construct inmate housing and other buildings at or within existing prison facilities; prison medical, mental health, and dental facilities; reentry facilities; and infrastructure projects at existing prison facilities.

(c) This section applies to regular prison facilities; projects to expand existing prison facilities; prison medical, mental health, and dental facilities; reentry facilities; and infrastructure projects at existing prison facilities, whether or not built or operated exclusively by the department.

SEC. 20. Section 7004.5 is added to the Penal Code, to read:

7004.5. The Department of Corrections and Rehabilitation shall meet with representatives of cities or, if the prison is located in an unincorporated location, counties, whenever the Legislature authorizes the planning, design, or construction of new permanent housing units. The meeting shall take place prior to the completion of the review required by Division 13 (commencing with Section 21000) of the Public Resources Code. The department shall describe the scope of the project and the project schedule, and shall consider comments from the city or county representatives regarding the project's impact.

SEC. 21. Section 7014 of the Penal Code is repealed.

SEC. 22. Section 7021 is added to the Penal Code, to read:

7021. (a) The State Public Works Board may not release any funds provided for projects in Section 15819.41 of the Government Code or Section 6271.1, until a three-member panel, composed of the State Auditor, the Inspector General, and an appointee of the Judicial Council of California, verifies that the conditions outlined in paragraphs (1) to (13), inclusive, have been met. The Legislative Analyst shall provide information and input to the three-member panel as it considers whether the conditions have been met.

(1) At least 4,000 beds authorized in subdivision (a) of Section 15819.40 of the Government Code are under construction.

(2) The first 4,000 beds authorized in subdivision (a) of Section 15819.40 of the Government Code include space and will provide opportunities for rehabilitation services for inmates.

(3) At least 2,000 of the beds authorized in subdivision (a) of Section 6271 are under construction or sited.

(4) At least 2,000 substance abuse treatment slots established in Section 2694 have been established, with aftercare in the community.

(5) Prison institutional drug treatment slots have averaged at least 75 percent participation over the previous six months.

(6) The Department of Corrections and Rehabilitation has implemented an inmate assessment at reception centers, pursuant to Section 3020, and has used the assessment to assign inmates to rehabilitation programs for at least six consecutive months.

(7) The Department of Corrections and Rehabilitation has completed the Inmate Treatment and Prison-to-Employment Plan, pursuant to Section 3105.

(8) At least 300 parolees are being served in day treatment or crisis care services, pursuant to Section 3073.

(9) The California Rehabilitation Oversight Board (C-ROB), created pursuant to Section 6140, has been in operation for at least one year, and is regularly reviewing the Department of Corrections and Rehabilitation's programs. This condition may be waived if the appointments to the C-ROB have not been made by the Legislature.

(10) The Department of Corrections and Rehabilitation has implemented a plan to address management deficiencies, pursuant to Section 2061, and at least 75 percent of management positions have been filled for at least six months.

(11) The Department of Corrections and Rehabilitation has increased full-time participation in inmate academic and vocation education programs by 10 percent from the levels of participation on April 1, 2007.

(12) The Department of Corrections and Rehabilitation has developed and implemented a plan to obtain additional rehabilitation services, pursuant to Section 2062, and the vacancy rate for positions dedicated to rehabilitation and treatment services in prisons and parole offices is no greater than the statewide average vacancy rate for all state positions.

(13) The Department of Corrections and Rehabilitation has reviewed existing parole procedures.

(b) The provisions of Section 15819.41 of the Government Code and Section 6271.1 shall not authorize construction of facilities until the three-member panel specified in subdivision (a) has certified that the requirements of that subdivision has not been meet. Those sections shall become inoperative on January 1, 2014. Any projects already underway may continue, and funding for those projects shall remain.

(c) The requirements set forth in Section 7021 are contingent upon the Legislature making funds available for the rehabilitation programs set forth in the Public Safety and Offender Rehabilitation Services Act of 2007.

SEC. 23. Section 10007 is added to the Penal Code, to read:

10007. The Department of Corrections and Rehabilitation may use portable or temporary buildings to provide rehabilitation, treatment, and

educational services to inmates within its custody, or to house inmates, as long as that housing does not jeopardize inmate or staff safety.

SEC. 24. The Legislature finds and declares all of the following:

(a) Between 16,000 and 17,000 inmates in California state prisons are sleeping in gymnasiums, dayrooms, classrooms, and hallways.

(b) These conditions create an unsafe environment for both staff and inmates.

(c) There are over 2,400 correctional staff vacancies at the Department of Corrections and Rehabilitation that result in significant overtime hours for correctional officers and costs to the state.

SEC. 25. Section 11191 of the Penal Code is amended to read:

11191. (a) Any court or other agency or officer of this state having power to commit or transfer an inmate (as defined in Article II (d) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact) to any institution for confinement may commit or transfer that inmate to any institution within or without this state if this state has entered into a contract or contracts for the confinement of inmates in that institution pursuant to Article III of the Interstate Corrections Compact or of the Western Interstate Corrections Compact. The inmate shall have the right to a private consultation with an attorney of his choice, or with a public defender if the inmate cannot afford counsel, concerning his rights and obligations under this section, and shall be informed of those rights prior to executing the written consent. At any time more than five years after the transfer, the inmate shall be entitled to revoke his consent and to transfer to an institution in this state. In which case, the transfer shall occur within the next 30 days.

(b) Notwithstanding subdivision (a), no inmate with serious medical or mental health conditions, as determined by the Plata Receiver, or an inmate in the mental health delivery system at the Enhanced Outpatient Program level of care or higher may be committed or transferred to an institution outside of this state unless he has executed a written consent to the transfer.

(c) This section shall remain in effect only until July 1, 2011, or until such time as the Department of Corrections and Rehabilitation has replaced "temporary beds," as defined in paragraph (3) of subdivision (a) of Section 15819.34 of the Government Code, whichever is sooner, and as of January 1, 2012, shall be repealed, unless a later enacted statute deletes or extends that date.

SEC. 26. Section 11191 is added to the Penal Code, to read:

11191. (a) Any court or other agency or officer of this state having power to commit or transfer an inmate (as defined in Article II (d) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact) to any institution for confinement may commit

or transfer that inmate to any institution within or without this state if this state has entered into a contract or contracts for the confinement of inmates in that institution pursuant to Article III of the Interstate Corrections Compact or of the Western Interstate Corrections Compact, but no inmate sentenced under California law may be committed or transferred to an institution outside of this state, unless he or she has executed a written consent to the transfer. The inmate shall have the right to a private consultation with an attorney of his choice, or with a public defender if the inmate cannot afford counsel, concerning his rights and obligations under this section, and shall be informed of those rights prior to executing the written consent. At any time more than five years after the transfer, the inmate shall be entitled to revoke his consent and to transfer to an institution in this state. In such cases, the transfer shall occur within the next 30 days.

(b) This section shall become operative on July 1, 2011, or at such time as the Department of Corrections and Rehabilitation has replaced "temporary beds," as defined in paragraph (3) of subdivision (a) of Section 15819.34 of the Government Code, whichever is sooner.

SEC. 27. Section 13602.1 is added to the Penal Code, to read:

13602.1. The Department of Corrections and Rehabilitation may establish a training academy for correctional officers in southern California.

SEC. 28. The sum of three hundred fifty million dollars ($350,000,000) is hereby appropriated from the General Fund to the Department of Corrections and Rehabilitation for the following purposes:

(a) Three hundred million dollars ($300,000,000) for capital outlay to renovate, improve, or expand infrastructure capacity at existing prison facilities. The funds appropriated by this section may be used for land acquisition, environmental services, architectural programming, engineering assessments, schematic design, preliminary plans, working drawings, and construction.

(b) Fifty million dollars ($50,000,000) to supplement funds for rehabilitation and treatment of prison inmates and parolees. These funds may be expended for staffing, contracts, and other services for rehabilitation and treatment services that include academic and vocational services, substance abuse treatment, and mental health treatment.

SEC. 29. 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:

As of April 2007, the prison inmate population totaled nearly 172,000. More than 16,000 inmates are being housed in buildings that were not designed as housing units, and all capacity in these nontraditional spaces

will be exhausted during June 2007. In order to provide prison capacity beyond 2007, it is necessary that this act take effect immediately.

CHAPTER 8

An act relating to sexually violent predators, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 2007. Filed with Secretary of State May 17, 2007.]

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

SECTION 1. The sum of twelve million five hundred thirty-two thousand dollars ($12,532,000) is hereby appropriated from the General Fund to the State Department of Mental Health for support of the Sexually Violent Predator program, provided for pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institution Code, as follows:

(a) The sum of twelve million one hundred eighteen thousand dollars ($12,118,000) to fund the increased number of sexually violent predator screenings, initial evaluations, and expert court testimony.

(b) The sum of four hundred fourteen thousand dollars ($414,000) for administrative support, including the provision of hospital police officers to ensure public safety.

(c) Funds appropriated pursuant to this section that are not expended by June 30, 2007, shall revert to the General Fund.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the people of California, it is necessary that this act take effect immediately.

CHAPTER 9

An act to amend Section 2106 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 5, 2007. Filed with Secretary of State June 5, 2007.]

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

SECTION 1. Section 2106 of the Vehicle Code is amended to read:

2106. The department shall maintain its main office within 20 miles of Sacramento.

CHAPTER 10

An act to make an appropriation in augmentation of the Budget Act of 2006, relating to the State Budget, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor June 5, 2007. Filed with Secretary of State June 5, 2007.]

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

SECTION 1. (a) The sum of two hundred ten million forty-four thousand dollars ($210,044,000) is hereby appropriated from the General Fund for expenditure for the 2006–07 fiscal year in augmentation of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2006 (Chapter 47 and 48 of the Statutes of 2006). Notwithstanding Provision 7 of Item 9840-001-0001, these funds shall be allocated by the Controller in accordance with the following schedule:

(1) Five million five hundred eighty-three thousand dollars ($5,583,000) to Item 0890-001-0001, Schedule (3) Special Item of Expense-Election Related Costs.

(2) Thirty million two hundred seventy-three thousand dollars ($30,273,000) to Item 5225-001-0001, scheduled as follows:

(A) Three hundred fifty-six thousand dollars ($356,000) to Schedule (1) 10-Corrections and Rehabilitation Administration.

(B) Three million seventeen thousand dollars ($3,017,000) to Schedule (6) 23-Juvenile Health care.

(C) Five million one hundred thirteen thousand dollars ($5,113,000) to Schedule (7) 25-Adult Corrections and Rehabilitation Operations.

(D) Twenty million three hundred ninety-seven thousand dollars ($20,397,000) to Schedule (8) 30-Parole Operations-Adult.

(E) One million three hundred ninety thousand dollars ($1,390,000) to Schedule (9) 35-Board of Parole Hearings.

(3) Fourteen million forty-seven thousand dollars ($14,047,000) to Item 5225-002-0001, Schedule (4) 50-Correctional Health Care Services.

(4) One hundred sixty million one hundred forty-one thousand dollars ($160,141,000) to Item 9800-001-0001.

(b) Of the funds appropriated in paragraph (2) of subdivision (a), the following amounts are available for expenditure to implement Proposition 83, as approved by the voters at the November 7, 2006, statewide general election:

(1) One million five hundred thirty-two thousand dollars ($1,532,000) in Schedule (7) 25-Adult Corrections and Rehabilitation Operations.

(2) Fifteen million seven hundred twenty thousand dollars ($15,720,000) in Schedule (8) 30-Parole Operations-Adult.

(3) One million three hundred ninety thousand dollars ($1,390,000) in Schedule (9) 35-Board of Parole Hearings.

SEC. 2. The sum of three million dollars ($3,000,000) is hereby appropriated from unallocated nongovernmental cost funds for expenditure for the 2006–07 fiscal year in augmentation of Item 9840-001-0988 of Section 2.00 of the Budget Act of 2006 (Chapter 47 and 48 of the Statutes of 2006). Notwithstanding Provision 7 of Item 9840-001-0001, the Controller shall allocate three million dollars ($3,000,000) to Item 4260-003-0942.

SEC. 3. Any unencumbered balance, as of June 30, 2007, of the funds appropriated within any of the items identified in Section 1 shall revert to the General Fund.

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

CHAPTER 11

An act to amend Section 2851 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 7, 2007. Filed with Secretary of State June 7, 2007.]

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

SECTION 1. Section 2851 of the Public Utilities Code is amended to read:

2851. (a) In implementing the California Solar Initiative, the commission shall do all of the following:

(1) The commission shall authorize the award of monetary incentives for up to the first megawatt of alternating current generated by solar

energy systems that meet the eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code. The commission shall determine the eligibility of a solar energy system, as defined in Section 25781 of the Public Resources Code, to receive monetary incentives until the time the State Energy Resources Conservation and Development Commission establishes eligibility criteria pursuant to Section 25782. Monetary incentives shall not be awarded for solar energy systems that do not meet the eligibility criteria. The incentive level authorized by the commission shall decline each year following implementation of the California Solar Initiative, at a rate of no less than an average of 7 percent per year, and shall be zero as of December 31, 2016. The commission shall adopt and publish a schedule of declining incentive levels no less than 30 days in advance of the first decline in incentive levels. The commission may develop incentives based upon the output of electricity from the system, provided those incentives are consistent with the declining incentive levels of this paragraph and the incentives apply to only the first megawatt of electricity generated by the system.

(2) The commission shall adopt a performance-based incentive program so that by January 1, 2008, 100 percent of incentives for solar energy systems of 100 kilowatts or greater and at least 50 percent of incentives for solar energy systems of 30 kilowatts or greater are earned based on the actual electrical output of the solar energy systems. The commission shall encourage, and may require, performance-based incentives for solar energy systems of less than 30 kilowatts. Performance-based incentives shall decline at a rate of no less than an average of 7 percent per year. In developing the performance-based incentives, the commission may:

(A) Apply performance-based incentives only to customer classes designated by the commission.

(B) Design the performance-based incentives so that customers may receive a higher level of incentives than under incentives based on installed electrical capacity.

(C) Develop financing options that help offset the installation costs of the solar energy system, provided that this financing is ultimately repaid in full by the consumer or through the application of the performance-based rebates.

(3) By January 1, 2008, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall require reasonable and cost-effective energy efficiency improvements in existing buildings as a condition of providing incentives for eligible solar energy systems, with appropriate exemptions or limitations to

accommodate the limited financial resources of low-income residential housing.

(4) (A) Notwithstanding subdivision (g) of Section 2827, the commission shall require time-variant pricing for all ratepayers with a solar energy system. The commission shall develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that assures that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to use electricity efficiently. In developing the time-variant tariff, the commission may exclude customers participating in the tariff from the rate cap for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, as required by Section 80110 of the Water Code. Nothing in this paragraph authorizes the commission to require time-variant pricing for ratepayers without a solar energy system.

(B) The commission may delay implementation of time-variant pricing pursuant to subparagraph (A), until the effective date of the rates subject to the next general rate case of the state's three largest electrical corporations, scheduled to be completed after January 1, 2009.

(C) If the commission delays implementation of time-variant pricing pursuant to subparagraph (B), ratepayers required to take service under time-variant pricing between January 1, 2007, and January 1, 2008, shall be given the option to take service under flat rate or time-variant pricing and shall be credited any difference between the time-variant rate and the otherwise applicable flat rate, provided there is a flat rate pricing schedule for which the ratepayer would qualify if the ratepayer had not installed the solar energy system.

(b) Notwithstanding subdivision (a), in implementing the California Solar Initiative, the commission may authorize the award of monetary incentives for solar thermal and solar water heating devices, in a total amount up to one hundred million eight hundred thousand dollars ($100,800,000).

(c) (1) In implementing the California Solar Initiative, the commission shall not allocate more than fifty million dollars ($50,000,000) to research, development, and demonstration that explores solar technologies and other distributed generation technologies that employ or could employ solar energy for generation or storage of electricity or to offset natural gas usage. Any program that allocates additional moneys to research, development, and demonstration shall be developed in collaboration with the Energy Commission to ensure there is no duplication of efforts, and adopted by the commission through a

rulemaking or other appropriate public proceeding. Any grant awarded by the commission for research, development, and demonstration shall be approved by the full commission at a public meeting. This subdivision does not prohibit the commission from continuing to allocate moneys to research, development, and demonstration pursuant to the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000, as modified pursuant to Section 379.6.

(2) The Legislature finds and declares that a program that provides a stable source of monetary incentives for eligible solar energy systems will encourage private investment sufficient to make solar technologies cost effective.

(3) On or before June 30, 2009, and by June 30th of every year thereafter, the commission shall submit to the Legislature an assessment of the success of the California Solar Initiative program. That assessment shall include the number of residential and commercial sites that have installed solar thermal devices for which an award was made pursuant to subdivision (b) and the dollar value of the award, the number of residential and commercial sites that have installed solar energy systems, the electrical generating capacity of the installed solar energy systems, the cost of the program, total electrical system benefits, including the effect on electrical service rates, environmental benefits, how the program affects the operation and reliability of the electrical grid, how the program has affected peak demand for electricity, the progress made toward reaching the goals of the program, whether the program is on schedule to meet the program goals, and recommendations for improving the program to meet its goals. If the commission allocates additional moneys to research, development, and demonstration that explores solar technologies and other distributed generation technologies pursuant to paragraph (1), the commission shall include in the assessment submitted to the Legislature, a description of the program, a summary of each award made or project funded pursuant to the program, including the intended purposes to be achieved by the particular award or project, and the results of each award or project.

(d) (1) The commission shall not impose any charge upon the consumption of natural gas, or upon natural gas ratepayers, to fund the California Solar Initiative.

(2) Notwithstanding any other provision of law, any charge imposed to fund the program adopted and implemented pursuant to this section shall be imposed upon all customers not participating in the California Alternate Rates for Energy (CARE) or family electric rate assistance (FERA) programs as provided in paragraph (2), including those residential customers subject to the rate cap required by Section 80110

of the Water Code for existing baseline quantities or usage up to 130 percent of existing baseline quantities of electricity.

(3) The costs of the program adopted and implemented pursuant to this section may not be recovered from customers participating in the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1, except to the extent that program costs are recovered out of the nonbypassable system benefits charge authorized pursuant to Section 399.8.

(e) In implementing the California Solar Initiative, the commission shall ensure that the total cost over the duration of the program does not exceed three billion three hundred fifty million eight hundred thousand dollars ($3,350,800,000). The financial components of the California Solar Initiative shall consist of the following:

(1) Programs under the supervision of the commission funded by charges collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company. The total cost over the duration of these programs shall not exceed two billion one hundred sixty-six million eight hundred thousand dollars ($2,166,800,000) and includes moneys collected directly into a tracking account for support of the California Solar Initiative and moneys collected into other accounts that are used to further the goals of the California Solar Initiative.

(2) Programs adopted, implemented, and financed in the amount of seven hundred eighty-four million dollars ($784,000,000), by charges collected by local publicly owned electric utilities pursuant to Section 387.5. Nothing in this subdivision shall give the commission power and jurisdiction with respect to a local publicly owned electric utility or its customers.

(3) Programs for the installation of solar energy systems on new construction, administered by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, and funded by nonbypassable charges in the amount of four hundred million dollars ($400,000,000), collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company pursuant to Article 15 (commencing with Section 399).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the goals of the California Solar Initiative are met and to avoid harm to the California solar industry, it is necessary that this act take effect immediately.

CHAPTER 12

An act to amend Section 49423.5 of the Education Code, relating to pupil health.

[Approved by Governor June 7, 2007. Filed with Secretary of State June 7, 2007.]

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

SECTION 1. Section 49423.5 of the Education Code is amended to read:

49423.5. (a) Notwithstanding Section 49422, an individual with exceptional needs who requires specialized physical health care services, during the regular schoolday, may be assisted by any of the following individuals:

(1) Qualified persons who possess an appropriate credential issued pursuant to Section 44267 or 44267.5, or hold a valid certificate of public health nursing issued by the Board of Registered Nursing.

(2) Qualified designated school personnel trained in the administration of specialized physical health care if they perform those services under the supervision, as defined by Section 3051.12 of Title 5 of the California Code of Regulations, of a credentialed school nurse, public health nurse, or licensed physician and surgeon and the services are determined by the credentialed school nurse or licensed physician and surgeon, in consultation with the physician treating the pupil, to include all of the following:

(A) Routine for the pupil.

(B) Pose little potential harm for the pupil.

(C) Performed with predictable outcomes, as defined in the individualized education program of the pupil.

(D) Does not require a nursing assessment, interpretation, or decisionmaking by the designated school personnel.

(b) Specialized health care or other services that require medically related training shall be provided pursuant to the procedures prescribed by Section 49423.

(c) Persons providing specialized physical health care services shall also demonstrate competence in basic cardiopulmonary resuscitation

and shall be knowledgeable of the emergency medical resources available in the community in which the services are performed.

(d) "Specialized physical health care services," as used in this section, include catheterization, gastric tube feeding, suctioning, or other services that require medically related training.

(e) Regulations necessary to implement this section shall be developed jointly by the State Department of Education and the State Department of Health Care Services, and adopted by the State Board.

(f) This section does not diminish or weaken any federal requirement for serving individuals with exceptional needs under the Individuals with Disabilities Education Improvement Act (20 U.S.C. Sec. 1400 et seq.), and its implementing regulations, and under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and its implementing regulations.

(g) Nothing in this section affects current state law or regulation regarding medication administration.

(h) It is the intent of the Legislature that nothing in this section shall cause the placement of individuals with exceptional needs at schoolsites other than those they would attend but for their needs for specialized physical health care services.

CHAPTER 13

An act to add Section 1687 to the Business and Professions Code, relating to dentistry.

[Approved by Governor June 22, 2007. Filed with Secretary of State June 22, 2007.]

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

SECTION 1. Section 1687 is added to the Business and Professions Code, to read:

1687. (a) Notwithstanding any other provision of law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory or under military law, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure pursuant to this chapter.

(2) If the individual is licensed under this chapter, the board shall revoke the license of the individual.

(3) The board shall not renew or reinstate the individual's licensure under this chapter.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual 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. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008.

CHAPTER 14

An act to add Section 217 to the Probate Code, relating to deceased persons.

[Approved by Governor June 22, 2007. Filed with Secretary of State June 22, 2007.]

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

SECTION 1. Section 217 is added to the Probate Code, to read:

217. (a) A business that receives an oral or written request from a family member, attorney, or personal representative of a deceased person to cancel that person's services may not require an in-person cancellation.

(b) For purposes of this section, "services" include, but are not limited to, gas, electrical, water, sewage, cable, satellite, telephone, or cellular telephone service.

CHAPTER 15

An act to amend Sections 488.080, 512.030, and 699.080 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor June 22, 2007. Filed with
Secretary of State June 22, 2007.]

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

SECTION 1. Section 488.080 of the Code of Civil Procedure is amended to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455.

(9) Property in a safe-deposit box, pursuant to Section 488.460.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) Before levying under the writ of attachment, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610 on a form provided by the registered process server.

(d) Within five court days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) A proof of service by the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons, as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be attached. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (d), except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (d).

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1033.5.

SEC. 2. Section 512.030 of the Code of Civil Procedure is amended to read:

512.030. (a) Prior to the hearing required by subdivision (a) of Section 512.020, the defendant shall be served with all of the following:

(1) A copy of the summons and complaint.

(2) A Notice of Application and Hearing.

(3) A copy of the application and any affidavit in support thereof.

(b) If the defendant has not appeared in the action, and a writ, notice, order, or other paper is required to be personally served on the defendant under this title, service shall be made in the same manner as a summons is served under Chapter 4 (commencing with Section 413.10) of Title 5.

SEC. 3. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140.

(6) Property in a safe-deposit box, pursuant to Section 700.150.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 701.030 on a form provided by the registered process server.

(d) Within five court days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) A proof of service by the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on other persons, as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be levied upon.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1033.5.

(g) A registered process server may levy more than once under the same writ of execution, provided that the writ is still valid.

CHAPTER 16

An act to amend Sections 8557 and 8558 of, to amend the heading of Article 9.8 (commencing with Section 8609) of Chapter 7 of Division 1 of Title 2 of, and to repeal Sections 8588.8 and 8609.2 of, the Government Code, relating to emergency services.

[Approved by Governor June 22, 2007. Filed with Secretary of State June 22, 2007.]

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

SECTION 1. Section 8557 of the Government Code is amended to read:

8557. (a) "Emergency Council" means the California Emergency Council.

(b) "State agency" means any department, division, independent establishment, or agency of the executive branch of the state government.

(c) "Political subdivision" includes any city, city and county, county, district, or other local governmental agency or public agency authorized by law.

(d) "Governing body" means the legislative body, trustees, or directors of a political subdivision.

(e) "Chief executive" means that individual authorized by law to act for the governing body of a political subdivision.

(f) "Disaster council" and "disaster service worker" have the meaning prescribed in Chapter 1 (commencing with Section 3201) of Part 1 of Division 4 of the Labor Code.

(g) "Public facility" means any facility of the state or a political subdivision, which facility is owned, operated, or maintained, or any combination thereof, through moneys derived by taxation or assessment.

(h) "Sudden and severe energy shortage" means a rapid, unforeseen shortage of energy, resulting from, but not limited to, events such as an embargo, sabotage, or natural disasters, and which has statewide, regional, or local impact.

SEC. 2. Section 8558 of the Government Code is amended to read:

8558. Three conditions or degrees of emergency are established by this chapter:

(a) "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

(b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

SEC. 3. Section 8588.8 of the Government Code is repealed.

SEC. 4. The heading of Article 9.8 (commencing with Section 8609) of Chapter 7 of Division 1 of Title 2 of the Government Code is amended to read:

Article 9.8. Disaster Preparedness

SEC. 5. Section 8609.2 of the Government Code is repealed.

CHAPTER 17

An act to amend Sections 17204 and 17206 of the Business and Professions Code, relating to unfair competition.

[Approved by Governor June 28, 2007. Filed with
Secretary of State June 28, 2007.]

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

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys

Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city having a population in excess of 750,000, or by a city attorney in any city and county and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation, or association, or by any person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. Civil Penalty for Violation of Chapter

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by

any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (e), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the General Fund in the State Treasury. The portion of penalties that is payable to the General Fund or to the Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or Chapter 1 (commencing with Section 17500) of Part 3 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or Chapter 1 (commencing with Section 17500) of Part 3.

(e) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(f) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive

use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

CHAPTER 18

An act to add Sections 1520.7 and 1569.194 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor June 28, 2007. Filed with Secretary of State June 28, 2007.]

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

SECTION 1. Section 1520.7 is added to the Health and Safety Code, to read:

1520.7. (a) Every community care facility that is licensed or has a special permit for specialized services pursuant to Section 1525 shall provide a copy of the disaster and mass casualty plan required pursuant to Section 80023 of Title 22 of the California Code of Regulations to any fire department, law enforcement agency, or civil defense or other disaster authority in the area or community in which the facility is located, upon request by the fire department, law enforcement agency, or civil defense or other disaster authority. Section 1540 shall not apply to this section.

(b) The department is not required to monitor compliance with this section as part of its regulatory monitoring functions.

SEC. 2. Section 1569.194 is added to the Health and Safety Code, to read:

1569.194. (a) Every residential care facility for the elderly that is licensed or has a valid special permit therefor pursuant to Section 1569.10 shall provide a copy of the disaster and mass casualty plan required pursuant to Section 87223 of Title 22 of the California Code of

Regulations to any fire department, law enforcement agency, or civil defense or other disaster authority in the area or community in which the facility is located, upon request by the fire department, law enforcement agency, or civil defense or other disaster authority. Section 1569.40 shall not apply to this section.

(b) The department is not required to monitor compliance with this section as part of its regulatory monitoring functions.

CHAPTER 19

An act to add Section 25608.5 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2007. Filed with Secretary of State June 28, 2007.]

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

SECTION 1. Section 25608.5 is added to the Business and Professions Code, to read:

25608.5. (a) On the portion of the Lower American River, as defined in Section 5841 of the Public Resources Code, from the Hazel Avenue Bridge to the Watt Avenue Bridge, a person in a nonmotorized vessel shall not possess a container with an alcoholic beverage, whether opened or closed, during the summer holiday periods that the Sacramento County Board of Supervisors prohibits the consumption or possession of an open alcoholic beverage container on the land portions along the river.

(b) For purposes of this section, "container" means bottle, can, or other receptacle.

(c) A violation of this section is punishable as an infraction pursuant to subdivision (b) of Section 25132 of the Government Code.

(d) Sacramento County shall provide notice on the land portions along the river described in subdivision (a) that a violation of this section is punishable as an infraction.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique problem of prevalent consumption of alcohol during certain summer holiday periods on this portion of the Lower American River.

SEC. 3. 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. 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 protect the health and safety of the public due to the problem of consumption of alcohol during certain summer holiday periods on a portion of the Lower American River, it is necessary for this act to take effect immediately.

CHAPTER 20

An act to amend Section 32121 of the Health and Safety Code, relating to hospital districts.

[Approved by Governor June 28, 2007. Filed with Secretary of State June 28, 2007.]

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

SECTION 1. Section 32121 of the Health and Safety Code, as amended by Section 2 of Chapter 194 of the Statutes of 2005, is amended to read:

32121. Each local district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of

the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the health care facility administrator, secretary, and other officers and employees of any health care facilities of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, and appoint, all officers and employees and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(i) To do any and all things that an individual might do that are necessary for, and to the advantage of, a health care facility and a nurses' training school, or a child care facility for the benefit of employees of the health care facility or residents of the district.

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district.

"Health care facilities," as used in this subdivision, means those facilities defined in subdivision (b) of Section 32000.1 and specifically

includes freestanding chemical dependency recovery units. "Health facilities," as used in this subdivision, may also include those facilities defined in subdivision (d) of Section 15432 of the Government Code.

(k) To do any and all other acts and things necessary to carry out this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations that are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the health care district.

(p) (1) To transfer, at fair market value, any part of its assets to one or more corporations to operate and maintain the assets. A transfer pursuant to this paragraph shall be deemed to be at fair market value if an independent consultant, with expertise in methods of appraisal and valuation and in accordance with applicable governmental and industry standards for appraisal and valuation, determines that fair and reasonable consideration is to be received by the district for the transferred district assets. Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(2) To transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district, including, without limitation, real property, equipment, and other fixed assets, current assets, and cash, relating to the operation of the district's health care facilities to one or more nonprofit corporations to operate and maintain the assets.

(A) A transfer of 50 percent or more of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if all of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least five properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement provides that the hospital district shall approve all initial board members of the nonprofit corporation and any subsequent board members as may be specified in the transfer agreement.

(iii) The transfer agreement provides that all assets transferred to the nonprofit corporation, and all assets accumulated by the corporation during the term of the transfer agreement arising out of, or from, the operation of the transferred assets, are to be transferred back to the district upon termination of the transfer agreement, including any extension of the transfer agreement.

(iv) The transfer agreement commits the nonprofit corporation to operate and maintain the district's health care facilities and its assets for the benefit of the communities served by the district.

(v) The transfer agreement requires that any funds received from the district at the outset of the agreement or any time thereafter during the term of the agreement be used only to reduce district indebtedness, to acquire needed equipment for the district health care facilities, to operate, maintain, and make needed capital improvements to the district's health care facilities, to provide supplemental health care services or facilities for the communities served by the district, or to conduct other activities that would further a valid public purpose if undertaken directly by the district.

(B) A transfer of 10 percent or more but less than 50 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (iii) to (v), inclusive, of subparagraph (A).

(C) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(D) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.

(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.

(4) The amendments to this subdivision made during the 1991–92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993–94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to any of the following:

(A) A district that has discussed and adopted a board resolution prior to September 1, 1992, that authorizes the development of a business plan for an integrated delivery system.

(B) A lease agreement, transfer agreement, or both between a district and a nonprofit corporation that were in full force and effect as of September 1, 1992, for as long as that lease agreement, transfer agreement, or both remain in full force and effect.

(5) Notwithstanding paragraph (4), if substantial amendments are proposed to be made to a transfer agreement described in subparagraph (A) or (B) of paragraph (4), the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(6) Notwithstanding paragraphs (4) and (5), a transfer agreement described in subparagraph (A) or (B) of paragraph (4) that provided for the transfer of less than 50 percent of a district's assets shall be subject to the requirements of this subdivision when subsequent amendments to that transfer agreement would result in the transfer, in sum or by increment, of 50 percent or more of a district's assets to the nonprofit corporation.

(7) For purposes of this subdivision, a "transfer" means the transfer of ownership of the assets of a district. A lease of the real property or the tangible personal property of a district shall not be subject to this subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) (A) Nothing in this section, including subdivision (j), shall be construed to permit a local district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is not located within the boundaries of the district.

(B) Notwithstanding subparagraph (A), Eastern Plumas Health Care District may obtain and be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is located on the campus of the Sierra Valley District Hospital. This subparagraph shall have no application to any other district and is intended only to address the urgent need to preserve skilled nursing or intermediate care services within the rural County of Sierra.

(C) Subparagraph (B) shall only remain operative until the Sierra Valley District Hospital is annexed by the Eastern Plumas Health Care District. In no event shall the Eastern Plumas Health Care District increase the number of licensed beds at the Sierra Valley District Hospital during the operative period of subparagraph (B).

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all

of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(12) A health care district shall report to the Attorney General, within 30 days of any transfer of district assets to one or more nonprofit or for-profit corporations, the type of transaction and the entity to whom the assets were transferred or leased.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care service plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Managed Care, at any location within or without the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in, or constitute, the giving or lending of the district's credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage that is a health care service plan, as defined in subdivision (f) of Section 1345, shall be subject to Chapter 2.2 (commencing with Section 1340) of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

A district shall not provide health care coverage for any employee of an employer operating within the communities served by the district, unless the Legislature specifically authorizes, or has authorized in this section or elsewhere, the coverage.

Nothing in this section shall be construed to authorize any district to contribute its facilities to any joint venture that could result in transfer of the facilities from district ownership.

(s) To provide health care coverage to members of the district's medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

(t) 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 32121 of the Health and Safety Code, as added by Section 3 of Chapter 194 of the Statutes of 2005, is amended to read:

32121. Each local district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions

in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the health care facility administrator, secretary, and other officers and employees of any health care facilities of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, and appoint, all officers and employees and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(i) To do any and all things that an individual might do that are necessary for, and to the advantage of, a health care facility and a nurses' training school, or a child care facility for the benefit of employees of the health care facility or residents of the district.

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district.

"Health care facilities," as used in this subdivision means those facilities defined in subdivision (b) of Section 32000.1 and specifically includes freestanding chemical dependency recovery units. "Health facilities," as used in this subdivision, may also include those facilities defined in subdivision (d) of Section 15432 of the Government Code.

(k) To do any and all other acts and things necessary to carry out this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations that are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the health care district.

(p) (1) To transfer, at fair market value, any part of its assets to one or more nonprofit corporations to operate and maintain the assets. A transfer pursuant to this paragraph shall be deemed to be at fair market value if an independent consultant, with expertise in methods of appraisal and valuation and in accordance with applicable governmental and industry standards for appraisal and valuation, determines that fair and reasonable consideration is to be received by the district for the transferred district assets. Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(2) To transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district, including, without limitation, real property, equipment, and other fixed assets, current assets, and cash, relating to the operation of the district's health care facilities to one or more nonprofit corporations to operate and maintain the assets.

(A) A transfer of 50 percent or more of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if all of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least five properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement provides that the hospital district shall approve all initial board members of the nonprofit corporation and any subsequent board members as may be specified in the transfer agreement.

(iii) The transfer agreement provides that all assets transferred to the nonprofit corporation, and all assets accumulated by the corporation during the term of the transfer agreement arising out of, or from, the operation of the transferred assets, are to be transferred back to the district upon termination of the transfer agreement, including any extension of the transfer agreement.

(iv) The transfer agreement commits the nonprofit corporation to operate and maintain the district's health care facilities and its assets for the benefit of the communities served by the district.

(v) The transfer agreement requires that any funds received from the district at the outset of the agreement or any time thereafter during the term of the agreement be used only to reduce district indebtedness, to acquire needed equipment for the district health care facilities, to operate, maintain, and make needed capital improvements to the district's health care facilities, to provide supplemental health care services or facilities for the communities served by the district, or to conduct other activities that would further a valid public purpose if undertaken directly by the district.

(B) A transfer of 10 percent or more but less than 50 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (iii) to (v), inclusive, of subparagraph (A).

(C) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local

measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(D) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.

(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.

(4) The amendments to this subdivision made during the 1991–92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993–94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to either of the following:

(A) A district that has discussed and adopted a board resolution prior to September 1, 1992, that authorizes the development of a business plan for an integrated delivery system.

(B) A lease agreement, transfer agreement, or both between a district and a nonprofit corporation that were in full force and effect as of September 1, 1992, for as long as that lease agreement, transfer agreement, or both remain in full force and effect.

(5) Notwithstanding paragraph (4), if substantial amendments are proposed to be made to a transfer agreement described in subparagraph (A) or (B) of paragraph (4), the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(6) Notwithstanding paragraphs (4) and (5), a transfer agreement described in subparagraph (A) or (B) of paragraph (4) that provided for the transfer of less than 50 percent of a district's assets shall be subject to the requirements of this subdivision when subsequent amendments to that transfer agreement would result in the transfer, in sum or by increment, of 50 percent or more of a district's assets to the nonprofit corporation.

(7) For purposes of this subdivision, a "transfer" means the transfer of ownership of the assets of a district. A lease of the real property or the tangible personal property of a district shall not be subject to this

subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) (A) Nothing in this section, including subdivision (j), shall be construed to permit a local district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is not located within the boundaries of the district.

(B) Notwithstanding subparagraph (A), Eastern Plumas Health Care District may obtain and be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is located on the campus of the Sierra Valley District Hospital. This subparagraph shall have no application to any other district and is intended only to address the urgent need to preserve skilled nursing or intermediate care services within the rural County of Sierra.

(C) Subparagraph (B) shall only remain operative until the Sierra Valley District Hospital is annexed by the Eastern Plumas Health Care District. In no event shall the Eastern Plumas Health Care District increase the number of licensed beds at the Sierra Valley District Hospital during the operative period of subparagraph (B).

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act

(Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(12) A health care district shall report to the Attorney General, within 30 days of any transfer of district assets to one or more nonprofit or for-profit corporations, the type of transaction and the entity to whom the assets were transferred or leased.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care service plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Managed Care, at any location within or without the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in, or constitute, the giving or lending of the district's credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage that is a health care service plan, as defined in subdivision (f) of Section 1345, shall be subject to Chapter 2.2 (commencing with Section 1340) of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

A district shall not provide health care coverage for any employee of an employer operating within the communities served by the district, unless the Legislature specifically authorizes, or has authorized in this section or elsewhere, the coverage.

Nothing in this section shall be construed to authorize any district to contribute its facilities to any joint venture that could result in transfer of the facilities from district ownership.

(s) To provide health care coverage to members of the district's medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

(t) This section shall become operative on January 1, 2011.

CHAPTER 21

An act to amend Section 3543 of the Government Code, relating to school employees.

[Approved by Governor June 28, 2007. Filed with Secretary of State June 28, 2007.]

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

SECTION 1. Section 3543 of the Government Code is amended to read:

3543. (a) Public school employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall have the right to represent themselves individually in their employment relations with the public school employer, except that once the employees in an appropriate unit have selected an exclusive representative and it has been recognized pursuant to Section 3544.1 or certified pursuant to Section 3544.7, no employee in that unit may meet and negotiate with the public school employer. If the exclusive representative of a unit provides notification, as specified by subdivision (a) of Section 3546, public school employees who are in a unit for which an exclusive representative has been selected, shall be required, as a condition of continued employment, to join the recognized employee organization or to pay the organization a fair share services fee, as required by Section 3546. If a majority of the members of a bargaining unit rescind that arrangement, either of the following options shall be applicable:

(1) The recognized employee organization may petition for the reinstatement of the arrangement described in subdivision (a) of Section 3546 pursuant to the procedures in paragraph (2) of subdivision (d) of Section 3546.

(2) The employees may negotiate either of the two forms of organizational security described in subdivision (i) of Section 3540.1.

(b) Any employee may at any time present grievances to his or her employer, and have such grievances adjusted, without the intervention of the exclusive representative, as long as the adjustment is reached prior to arbitration pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8 and the adjustment is not inconsistent with the terms of a written agreement then in effect; provided that the public school employer shall not agree to a resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.

CHAPTER 22

An act to amend Sections 8427, 8482.55, and 8484 of the Education Code, relating to before and after school programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2007. Filed with Secretary of State June 28, 2007.]

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

SECTION 1. Section 8427 of the Education Code is amended to read:

8427. (a) A high school after school program established pursuant to this article shall submit to the department annual outcome-based data for evaluation, including research-based indicators and measurable pupil outcomes, including, but not limited to, academic performance, school attendance, positive behavioral changes, and, to the extent possible, performance on the high school exit examination and graduation rates.

(1) To demonstrate program effectiveness, grantees shall submit all of the following:

(A) Participating pupil schoolday attendance on an annual basis.

(B) Program attendance on a semi-annual basis.

(2) To demonstrate program effectiveness based upon individual program focus, programs shall select one or more of the following measures to be used for at least three consecutive years and submitted annually:

(A) Positive behavioral changes, as reported by schoolday teachers or after school staff who directly supervise pupils.

(B) Pupil performance on the high school exit examination and graduation rates.

(C) Pupil performance on the Standardized Testing and Reporting (STAR) Program test.

(D) Homework completion rates.

(E) Skill development consistent with the program elements, as reported by schoolday teachers or after school staff who directly supervise pupils.

(F) The department may develop additional measures to demonstrate program effectiveness. Any additions shall be developed in consultation with the advisory committee pursuant to Section 8484.9.

(3) Programs shall submit information adopted through the process outlined in subdivision (b) of Section 8421.5.

(b) (1) If a program consistently fails to demonstrate measurable program outcomes for three consecutive years, the department may terminate the program pursuant to the process in subdivision (e) of Section 8426. The department shall consider multiple outcomes and not rely on one outcome in isolation.

(2) For purposes of this subdivision, "consistently fails to demonstrate measurable program outcomes" means failure to meet program effectiveness requirements pursuant to the criteria in paragraphs (1) and (2) of subdivision (a).

(3) Measurable program outcomes may be demonstrated by, but are not limited to, the following methods:

(A) Comparing pupils participating in the program to nonparticipating pupils at the same schoolsite.

(B) Pupils participating in the program demonstrate improvement on one or more indicators collected by the program pursuant to this section.

(c) The department shall identify or develop standardized procedures and tools to collect the indicators in paragraphs (1) and (2) of subdivision (a) in accordance with the process outlined in paragraph (4) of subdivision (h) of Section 8484.9.

SEC. 2. Section 8482.55 of the Education Code is amended to read:

8482.55. (a) To accomplish the purposes of the After School Education and Safety Program, commencing with the fiscal year beginning July 1, 2004, and for each fiscal year thereafter, all grants made pursuant to this article shall be awarded as set forth in this section.

(b) (1) Grants made to public schools pursuant to this article for the 2005–06 fiscal year shall continue to be funded in each subsequent fiscal year at the 2005–06 fiscal year level, after the adjustments provided in paragraphs (1) and (2) of subdivision (a) of Section 8483.7 and paragraphs (1) and (2) of subdivision (a) of Section 8483.75 have been made, before any other grants are funded under this article, provided

those schools continue to make application for the grants and are otherwise qualified pursuant to this article. Receipt of a grant at the 2005–06 fiscal year level made pursuant to this subdivision shall not affect a school's eligibility for additional grant funding as permitted in subdivisions (c) and (d) up to the maximum grants permitted in Sections 8483.7 and 8483.75.

(2) (A) An elementary or middle school program grantee funded pursuant to Section 8484.8 shall apply to receive a new grant under this article in the 2006–07 fiscal year. These programs shall receive priority for funding before any new grant is funded pursuant to this article, if the program is otherwise qualified pursuant to this article. Notwithstanding the maximum grant amounts permitted in Sections 8483.7 and 8483.75, the grantee shall receive the same amount of grant funding that it was awarded pursuant to Section 8484.8 in the fiscal year prior to the year for which the grantee requests funding pursuant to this article. The grantee shall apply to the department, and elect to receive funding under this article, on or before a date established by the department that is prior to the date by which the department awards new grants pursuant to this article.

(B) Grantees funded pursuant to Section 8484.8 in the 2005–06 fiscal year may elect to receive funding pursuant to this article after the 2006–07 fiscal year and shall be funded under the conditions outlined in subparagraph (A), if funds are available.

(c) Each public elementary, middle, and junior high school in the state shall be eligible to receive a three year renewable direct grant for after school programs to be operated during the regular school year, as provided in subparagraph (A) of paragraph (1) of subdivision (a) of Section 8483.7. In the case of schools serving a combination of elementary, middle, and junior high school pupils, the applicant may apply for a grant with funding based on the middle school grant maximum. The program shall comply with the elementary program and attendance requirements for pupils in the elementary grades. For purposes of this article, a school serving a combination of middle and junior high school and high school pupils shall be eligible to apply for a grant to serve pupils through grade 9. Except as provided in this subdivision, grants for after school programs made pursuant to this subdivision shall be subject to all other sections of this article. Grants for after school programs made pursuant to this subdivision shall not exceed one hundred twelve thousand five hundred dollars ($112,500) for each regular school year for each elementary school or one hundred fifty thousand dollars ($150,000) for each regular school year for each middle or junior high school. Except as provided in subdivision (f) of this section and subdivision (a) of Section 8482.5, each public elementary, middle, and

junior high school in the state shall have equal priority of funding for grants for after school programs made pursuant to this subdivision. Receipt of a grant for an after school program made pursuant to this subdivision shall not affect a school's eligibility for additional grant funding as permitted in subdivision (d) up to the maximum grants permitted in Sections 8483.7 and 8483.75. Grants made pursuant to this subdivision shall be funded after grants made pursuant to subdivision (b) and before any grants made pursuant to subdivision (d). Grants made pursuant to this subdivision shall be referred to as "After School Education and Safety Universal Grants."

(d) All funds remaining from the appropriation provided in Section 8483.5 after award of grants pursuant to subdivisions (b) and (c) shall be distributed pursuant to Sections 8483.7 and 8483.75. Grants for programs made pursuant to this subdivision shall be subject to all other sections of this article. Priority for grants for programs made pursuant to this subdivision shall be established pursuant to subdivision (a) of Section 8482.5 and Section 8483.3.

(e) With the exception of schools previously funded under both this article and Section 8484.8, a school shall not receive grants in excess of the amounts provided in Sections 8483.7 and 8483.75.

(f) If in any fiscal year the appropriation made pursuant to Section 8483.5 is insufficient to fund all eligible schools who submit an eligible application for After School Education and Safety Universal Grants pursuant to subdivision (c), priority for After School Education and Safety Universal Grants shall be established pursuant to subdivision (a) of Sections 8482.5 and 8483.3.

SEC. 3. Section 8484 of the Education Code is amended to read:

8484. (a) As required by the department, programs established pursuant to this article shall submit annual outcome based data for evaluation, including research-based indicators and measurable student outcomes for academic performance, attendance, and positive behavioral changes. The department may consider these outcomes when determining eligibility for grant renewal.

(1) To demonstrate program effectiveness, grantees shall submit both of the following:

(A) Schoolday attendance on an annual basis.

(B) Program attendance.

(2) To demonstrate program effectiveness based upon individual program focus, programs shall submit one or more of the following measures annually:

(A) Positive behavioral changes, as reported by schoolday teachers or after school staff who directly supervise pupils.

(B) Pupil Standardized Testing and Reporting (STAR) Program test scores.

(C) Homework completion rates as reported by schoolday teachers or after school staff who directly supervise pupils.

(D) Skill development as reported by schoolday teachers or after school staff who directly supervise pupils.

(E) The department may develop additional measures for this paragraph. Any additions shall be developed in consultation with the evaluation committee of the advisory committee.

(3) Programs shall submit information adopted through the process outlined in subdivision (c).

(b) (1) If a program consistently fails to demonstrate measurable program outcomes for three consecutive years, the department may terminate the program as described in subdivision (a) of Section 8483.7. The department shall consider multiple outcomes and not rely on one outcome in isolation.

(2) For the purposes of this section, "consistently fails to demonstrate measurable program outcomes" means failure to meet program effectiveness requirements pursuant to the criteria in paragraphs (1) and (2) of subdivision (a).

(3) Measurable program outcomes may be demonstrated by, but are not limited to, the following methods:

(A) Comparing pupils participating in the program to nonparticipating pupils at the same schoolsite.

(B) Pupils participating in the program demonstrate improvement on one or more indicators collected by the program pursuant to this paragraph.

(4) For the purposes of subparagraph (B) of paragraph (2) of subdivision (a), program effectiveness may be demonstrated using performance levels from the STAR Program by any of the following:

(A) The grantee documents the percentage of pupils performing at the far below basic level declined.

(B) The grantee documents the percentage of pupils performing above the far below basic and below basic levels increased.

(C) The grantee documents the percentage of pupils who performed at or above the basic level increased.

(D) The grantee documents pupils participating in the program performed better in a year-to-year comparison of the results of the STAR Program than their peers who were not participating in the program.

(c) The department shall develop standardized procedures and tools to collect the indicators in paragraphs (1) and (2) of subdivision (a). The department shall consult with the evaluation committee of the Advisory

Committee on Before and After School Programs pursuant to Section 8484.9.

SEC. 4. The Legislature finds and declares that the change made to Section 8482.55 of the Education Code by Section 1 of this act furthers the purposes of the After School Education and Safety Program Act of 2002.

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 fully implement the Budget Act of 2006 prior to the end of the 2006–07 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 23

An act to amend Section 35330 of the Education Code, relating to charter schools.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 35330 of the Education Code is amended to read:

35330. (a) The governing board of a school district or the county superintendent of schools of a county may:

(1) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for pupils.

(2) Engage instructors, supervisors, and other personnel to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(3) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment,

of pupils, instructors, supervisors or other personnel to and from places in the state, another state, the District of Columbia, or a foreign country where those excursions and field trips are being conducted, provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(4) Provide supervision of pupils involved in field trips or excursions by certificated employees of the district.

(b) (1) No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need.

(2) No group shall be authorized to take a field trip or excursion authorized by this section if a pupil who is a member of an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

(3) No expenses of pupils participating in a field trip or excursion to other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds. Expenses of instructors, chaperones, and other personnel participating in a field trip or excursion authorized by this section may be paid from school district funds, and the school district may pay from school district funds all incidental expenses for the use of school district equipment during a field trip or excursion authorized by this section.

(c) (1) The attendance or participation of a pupil in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from a field trip or excursion shall be limited to the amount of attendance that would have accrued had the pupils not been engaged in the field trip or excursion.

(2) Credited attendance shall not exceed 10 schooldays except in the case of pupils participating in a field trip or excursion in connection with courses of instruction, or school-related educational activities, and which are not social, cultural, athletic, or school band activities.

(d) All persons making the field trip or excursion shall be deemed to have waived all claims against the district, a charter school, or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of pupils taking out-of-state field trips or excursions shall sign a statement waiving all claims.

No transportation allowances shall be made by the Superintendent for expenses incurred with respect to field trips or excursions that have an out-of-state destination. A school district that transports pupils, teachers, or other employees of the district in schoolbuses within the state and to destinations within the state, pursuant to the provisions of this section, shall report to the Superintendent on forms prescribed by him or her the total mileage of schoolbuses used in connection with educational excursions. In computing the allowance to a school district for regular transportation there shall be deducted from that allowance an amount equal to the depreciation of schoolbuses used for the transportation in accordance with rules and regulations adopted by the Superintendent.

CHAPTER 24

An act to amend Sections 49406 and 87408.6 of the Education Code, and to amend Sections 1226.1, 121362, 121490, 121525, and 121530 of the Health and Safety Code, relating to tuberculin testing.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 49406 of the Education Code is amended to read:

49406. (a) Except as provided in subdivision (h), no person shall be initially employed by a school district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of either an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), which, if positive, shall be followed by an X-ray of the lungs in accordance with subdivision (f) of Section 120115 of the Health and Safety Code.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

The district superintendent or his or her designee may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

(b) Thereafter, employees who are test negative by either the tuberculin skin test or any other test for tuberculosis infection recommended by the CDC and licensed by the FDA shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer for so long as the employee's test remains negative. Once an employee has a documented positive test for tuberculosis infection conducted pursuant to this subdivision which has been followed by an X-ray, the foregoing examination is no longer required, and a referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the examination, each employee shall cause to be on file with the district superintendent of schools a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all their certificates be filed in the office of the county superintendent of schools or shall require their files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within the county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate," as used in this section, means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the American Lung Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent physical examination than required by this section, but the rule shall provide for reimbursement on the same basis as required in this section.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse that person in a like manner prescribed in this section for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

The governing board may, however, require an examination described in subdivision (b) and may, as a contract condition, require the examination of persons employed under contract, other than those persons specified in subdivision (a), if the board believes the presence of these persons in and around school premises would constitute a health hazard to pupils.

(g) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the district would not be jeopardized thereby, this section shall not apply to any employee of the district who files an affidavit stating that he or she adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his or her knowledge and belief he or she is free from active tuberculosis. If at any time there should be probable cause to believe that the affiant is afflicted with active tuberculosis, he or she may be excluded from service until the governing board of the employing district is satisfied that he or she is not so afflicted.

(h) A person who transfers his or her employment from one school or school district to another shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

(i) Any governing board or county superintendent of schools providing for the transportation of pupils under contract authorized by Section 39800, 39801, or any other provision of law shall require as a condition of the contract the examination for active tuberculosis, as provided by subdivision (a), of all drivers transporting these pupils, provided that private contracted drivers who transport these pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

SEC. 2. Section 87408.6 of the Education Code is amended to read:

87408.6. (a) Except as provided in subdivision (h), no person shall be initially employed by a community college district in an academic or classified position unless the person has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an approved intradermal tuberculin test or any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), that, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

The district superintendent, or his or her designee, may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

(b) Thereafter, employees who are skin test negative, or negative by any other test recommended by the CDC and licensed by the FDA, shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer for so long as the employee remains test negative by either the tuberculin skin test or any other test recommended by the CDC and licensed by the FDA. Once an employee has a documented positive skin test or any other test that has been recommended by the CDC and licensed by the FDA that has been followed by an X-ray, the foregoing examinations shall no longer be required, and referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the examination, each employee shall cause to be on file with the district superintendent a certificate from the examining physician

and surgeon showing the employee was examined and found free from active tuberculosis. "Certificate," as used in this subdivision, means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the American Lung Association that indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse the person in a like manner prescribed for employees in subdivision (e).

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the district complying with this section.

(f) At the discretion of the governing board, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a college year whose functions do not require frequent or prolonged contact with students.

The governing board may, however, require the examination and may, as a contract condition, require the examination of persons employed under contract, other than those persons specified in subdivision (a), if the board believes the presence of these persons in and around college premises would constitute a health hazard to students.

(g) If the governing board of a community college district determines by resolution, after hearing, that the health of students in the district would not be jeopardized thereby, this section shall not apply to any employee of the district who files an affidavit stating that he or she adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his or her knowledge and belief he or she is free from active tuberculosis. If at any time there should be probable cause to believe that the affiant is afflicted with active tuberculosis, he or she may be excluded from service until the governing board of the employing district is satisfied that he or she is not so afflicted.

(h) A person who transfers his or her employment from one campus or community college district to another shall be deemed to meet the requirements of subdivision (a) if the person can produce a certificate that shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified

by the college previously employing him or her that it has a certificate on file that contains that showing.

A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to the community college district subject to this section shall be deemed to meet the requirements of subdivision (a) if the person can produce a certificate as provided for in Section 121525 of the Health and Safety Code that shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has the certificate on file.

(i) Any governing board of a community college district providing for the transportation of students under contract shall require as a condition of the contract the examination for active tuberculosis, as provided in subdivision (a) of this section, of all drivers transporting the students, provided that privately contracted drivers who transport the students on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(j) Examinations required pursuant to subdivision (i) shall be made available without charge by the local health officer.

SEC. 3. Section 1226.1 of the Health and Safety Code is amended to read:

1226.1. (a) A primary care clinic shall comply with the following requirements regarding health examinations and other public health protections for individuals working in a primary care clinic:

(1) An employee working in a primary care clinic who has direct contact with patients shall have a health examination within six months prior to employment or within 15 days after employment. Each examination shall include a medical history and physical evaluation. A written examination report, signed by the person performing the examination, shall verify that the employee is able to perform his or her assigned duties.

(2) At the time of employment, testing for tuberculosis shall consist of a purified protein derivative intermediate strength intradermal skin test or any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If a positive reaction is obtained from the skin test, or any other test for tuberculosis infection recommended by the CDC and licensed by the FDA, the employee shall be referred to a physician to determine if a chest X-ray is necessary. Annual examinations shall be performed only when medically indicated.

(3) The clinic shall maintain a health record for each employee that includes reports of all employment-related health examinations. These

records shall be kept for a minimum of three years following termination of employment.

(4) An employee known to have or exhibiting signs or symptoms of a communicable disease shall not be permitted to work until he or she submits a physician's certification that the employee is sufficiently free of the communicable disease to return to his or her assigned duties.

(b) Any regulation adopted before January 1, 2004, that imposes a standard on a primary care clinic that is more stringent than described in this section is void.

SEC. 4. Section 121362 of the Health and Safety Code is amended to read:

121362. Each health care provider who treats a person for active tuberculosis disease, each person in charge of a health facility, or each person in charge of a clinic providing outpatient treatment for active tuberculosis disease shall promptly report to the local health officer at the times that the health officer requires, but no less frequently than when there are reasonable grounds to believe that a person has active tuberculosis disease, and when a person ceases treatment for tuberculosis disease. Situations in which the provider may conclude that the patient has ceased treatment include times when the patient fails to keep an appointment, relocates without transferring care, or discontinues care. The initial disease notification report shall include an individual treatment plan that includes the patient's name, address, date of birth, tuberculin skin test results or the results of any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration, pertinent radiologic, microbiologic, and pathologic reports, whether final or pending, and any other information required by the local health officer. Subsequent reports shall provide updated clinical status and laboratory results, assessment of treatment adherence, name of current care provider if the patient transfers care, and any other information required by the local health officer. A facility discharge, release, or transfer report shall include all pertinent and updated information required by the local health officer not previously reported on any initial or subsequent report, and shall specifically include a verified patient address, the name of the medical provider who has specifically agreed to provide medical care, clinical information used to assess the current infectious state, and any other information required by the local health officer. Each health care provider who treats a person with active tuberculosis disease, and each person in charge of a health facility or a clinic providing outpatient treatment for active tuberculosis disease, shall maintain written documentation of each patient's adherence to his or her individual treatment plan. Nothing in this section shall authorize the disclosure of

test results for human immunodeficiency virus (HIV) unless authorized by Chapter 7 (commencing with Section 120975) of, Chapter 8 (commencing with Section 121025) of, and Chapter 10 (commencing with Section 121075) of Part 4 of Division 105.

In the case of a parolee under the jurisdiction of the Department of Corrections and Rehabilitation, the local health officer shall notify the assigned parole agent, when known, or the regional parole administrator, when there are reasonable grounds to believe that the parolee has active tuberculosis disease and when the parolee ceases treatment for tuberculosis. Situations where the local health officer may conclude that the parolee has ceased treatment include times when the parolee fails to keep an appointment, relocates without transferring care, or discontinues care.

SEC. 5. Section 121490 of the Health and Safety Code is amended to read:

121490. The examination shall consist of either an approved intradermal tuberculin skin test or any other test for tuberculosis infection that has been recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration, that, if positive, is followed by an X-ray of the lungs.

SEC. 6. Section 121525 of the Health and Safety Code is amended to read:

121525. (a) Except as provided in Section 121555, no person shall be initially employed by a private or parochial elementary or secondary school, or any nursery school, unless that person produces or has on file with the school a certificate showing that within the last 60 days the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative, or negative by any other test for tuberculosis recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), shall be required to undergo the foregoing examination at least once each four years, or more often if directed by the school upon recommendation of the local health officer, for so long as the employee remains test negative by any test for tuberculosis infection that has been recommended by the CDC and licensed by the FDA. Once an employee has a documented positive tuberculin test or any other test for tuberculosis infection that has been recommended by the CDC and licensed by the FDA, the foregoing examination is no longer required, and a referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) At the discretion of the governing authority of a private school, this section shall not apply to employees who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils. The governing authority may, however, require the examination and may as a contract condition require the examination of persons employed under contract if the governing authority believes the presence of the persons in and around the school premises would constitute a health hazard to students.

(d) The governing authority of a private school providing for the transportation of pupils under authorized contract shall require as a condition of the contract that every person transporting pupils produce a certificate showing that within the last 60 days the person has been examined and has been found to be free of communicable tuberculosis, except that any private contracted driver who transports pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(e) The examination attested to in the certificate required pursuant to subdivision (d) of this section shall be made available without charge by the local health officer.

"Certificate," as used in this chapter, means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association that indicates freedom from active tuberculosis.

(f) Nothing in this section shall prevent the governing authority of a private, parochial, or nursery school, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by this section.

SEC. 7. Section 121530 of the Health and Safety Code is amended to read:

121530. The examination shall consist of either an approved intradermal tuberculosis test or any other test for tuberculosis infection that has been recommended by the CDC and licensed by the FDA, that, if positive, shall be followed by an X-ray of the lungs.

CHAPTER 25

An act to amend Section 50665.5 of the Government Code, relating to local agency finance.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 50665.5 of the Government Code is amended to read:

50665.5. For all local agencies, the initiating resolution shall recite each of the following:

(a) That the initiating resolution is being adopted pursuant to the powers granted by this article.

(b) The object and purpose of incurring the indebtedness.

(c) The estimated cost of the public improvements.

(d) The maximum amount of the indebtedness.

(e) A maximum rate of interest on the indebtedness.

(f) (1) A pledge by the local agency that any bonds issued pursuant to the initiating resolution shall be secured by all or part of the revenues received by the local agency.

(2) The local agency may restrict the pledge to the revenues received by the local agency from a specified geographical area that is within the local agency's exterior boundaries. The legal description of the boundaries of the geographical area shall be contained in the resolution.

(g) The date of the election.

(h) The manner of holding the election and the procedure for voting for or against the proposition.

CHAPTER 26

An act to amend Section 20150.1 of the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 20150.1 of the Public Contract Code is amended to read:

20150.1. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), every county, whether general law or charter, containing a population of less than 500,000 shall employ bidding procedures on public projects as provided in this article. This article shall be liberally construed to effect its purposes. In the event of conflict

with any other provision of law relative to bidding procedures, the provisions of this article shall apply.

(b) Every county, whether general law or charter, containing a population of less than 500,000 is authorized to participate in the Uniform Public Construction Cost Accounting Act under Chapter 2 (commencing with Section 22000) of Part 3 of Division 2.

SEC. 2. The amendment of Section 210150.1 made by this act does not constitute a change in, but is declaratory of, existing law.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Twenty-three counties with populations of less than 500,000 have adopted resolutions, in the manner as prescribed by law, allowing them to use the alternative bidding procedures in the Uniform Construction Cost Accounting Act, and acting in good faith, these counties have been using the act for public construction bidding for many years. Due to the Controller's recent interpretation of the state's public contracting laws, these counties have recently received letters from the Controller indicating they are not eligible to use the act's alternative bidding procedures. As such, an urgent statutory fix is necessary to protect the counties from challenges that they have been acting illegally, and to allow the counties to continue to use the act's alternative bidding procedures that they have been using up to this point without question from the Controller or the public.

CHAPTER 27

An act to amend Sections 25210.77b, 38743, 38902, 54251, 54984.4, 54984.7, 54984.8, and 61124 of, and to repeal Sections 54984.5 and 54984.6 of, the Government Code, to amend Section 5471 of the Health and Safety Code, to amend Sections 13215 and 13216 of the Public Resources Code, to amend Sections 13022, 16475, 16477, and 16478 of, and to repeal Section 16476 of, the Public Utilities Code, to amend Sections 22280, 31031, 31031.8, 31032.1, 31032.10, 31032.12, 31104, 31104.5, 31104.7, 31104.8, 35470, 50902, 50911, 52402, 55501.5, 55507, 71630, 71632, and 71638 of, to add Sections 35470.1, 37210.1, and 37210.2 to, and to repeal Section 71638.3 of, the Water Code, and to amend Section 5.2 of Chapter 545 of the Statutes of 1943, Section 27.6 of Chapter 1657 of the Statutes of 1951, Section 3.8 of Chapter 2036 of the Statutes of 1959, Section 3.9 of Chapter 2137 of the Statutes of 1959, Section 76 of Chapter 2146 of the Statutes of 1959, Section

11.5 of Chapter 40 of the Statutes of the First Extraordinary Session of 1962, Section 24.1 of Chapter 28 of the Statutes of the First Extraordinary Session of 1962, Sections 134.5, 134.6, and 134.7 of Chapter 209 of the Statutes of 1969, Section 721 of Chapter 527 of the Statutes of 1977, Section 441 of Chapter 926 of the Statutes of 1983, Section 441 of Chapter 688 of the Statutes of 1984, Section 441 of Chapter 689 of the Statutes of 1984, Section 420 of Chapter 1399 of the Statutes of 1987, Section 12 of Chapter 1159 of the Statutes of 1990, and Sections 603 and 604 of Chapter 803 of the Statutes of 1992, relating to local government.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 25210.77b of the Government Code is amended to read:

25210.77b. (a) A county may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix, on or before the first day of July in each calendar year, a water or sewer standby or immediate availability charge on all land within a county service area to which water or sewers are made available for any purpose by the county whether the water or sewers are actually used or not, except that the charge shall not apply to lands permanently dedicated exclusively to the public transportation of persons or property. The board of supervisors of the county which fixes the water standby charge may establish schedules varying the charges in different months and in different localities within a county service area depending upon factors such as the uses to which the land is put, the cost of transporting the water to the land, the degree of availability or quantity of use of the water to the affected lands. The board may not, however, fix a charge in excess of thirty dollars ($30) for each acre of land, or thirty dollars ($30) for each parcel of land of less than one acre, for either water or sewer standby charges, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

If a person for more than one year obtains substantially all of his or her water requirements for the contiguous parcels of land which he or she occupies from rainfall, springs, streams, lakes, rivers, or wells, and if the person's primary economic activity on the land is the commercial extraction or processing of minerals, the land shall be exempt from any water standby or availability charges.

(b) Notwithstanding any other provision of this article, San Luis Obispo County may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix, on or before the first day of July in each calendar year, a sewer standby or immediate availability charge not to exceed sixty dollars ($60) for each acre of land or for each parcel of land of less than one acre, on all land within a county service area to which sewers are made available for any purpose by the county whether the sewers are actually used or not, except that the charge shall not apply to lands permanently dedicated exclusively to the public transportation of persons or property. The Board of Supervisors of San Luis Obispo County in so fixing the sewer standby charge may establish schedules varying the charges in different months and in different localities within the county service area depending upon factors such as the uses to which the land is put, the cost of transporting the sewage from the land, and the degree of the availability of sewage collection and treatment to the affected lands.

(c) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the county board of supervisors may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753.

SEC. 2. Section 38743 of the Government Code is amended to read:

38743. A city may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix, on or before the first day of July in each calendar year, an annual water service standby or immediate availability charge to be applied on an area or frontage or parcel basis, or a combination thereof, within the city to be charged to such areas to which water service is made available for any purpose by the city, whether the water service is actually used or not. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the city council may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the city council shall comply with the notice, protest, and hearing procedures in Section 53753. The city council of a city which fixes such a charge may establish schedules varying such charge according to the land uses and the degree of availability or quantity of use of such water service to the affected lands, and may restrict such charge to lands lying within one or more zones or areas of benefits established within such city. The council may not, however, fix a monthly charge in excess of ten dollars ($10) per acre, either on an area or frontage basis, or in excess of five dollars ($5) for a parcel or frontage of less than an acre unless the standby charge is

imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

A city may collect the standby or availability charge by billing the charged lands on a monthly or fiscal year basis.

A city may collect the standby or availability charge as a part of the annual general county tax bill provided the city furnishes, on or before August 10, in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel. The parcel description may be the parcel number assigned by the county assessor to the parcel.

If the city collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 3. Section 38902 of the Government Code is amended to read:

38902. A city may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix an annual sewer service standby or immediate availability charge to be applied on an area or frontage or parcel basis, or a combination thereof, within the city to be charged to such areas to which sewer service is made available for any purpose by the city, whether the sewer service is actually used or not. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the city council may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the city council shall comply with the notice, protest, and hearing procedures in Section 53753. The city may establish schedules varying such charge according to the land uses and the degree of availability or quantity of use of such sewer service to the affected lands, and may restrict such charge to lands lying within one or more zones or areas of benefits established within such city.

The city may collect the standby or availability charge by billing the charged lands on a fiscal year basis or by other means available.

The city may collect the standby or availability charge as a part of the annual general county tax bill provided the city furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel in sufficient time to meet the schedule established by the county for inclusion of such items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In such case, the standby or availability charge shall become a lien against the parcel of land to which

it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby or availability charge or the amount thereof unpaid in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes.

If the city collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 4. Section 54251 of the Government Code is amended to read:

54251. (a) A local agency may, pursuant to this article, authorize, grant, or enter into one or more exclusive or nonexclusive franchise, license, or service agreements with a privatizer for the design, ownership, financing, construction, maintenance, or operation of a privatization project.

(b) A local agency may enact any measures necessary and convenient to carry out this article.

(c) Notwithstanding Section 25210.77b, within a county service area, a county may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix a charge in excess of ten dollars ($10) for each acre of land, or ten dollars ($10) for each parcel of land of less than one acre for sewer standby charges subject to a privatization project pursuant to this article. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the county may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the county shall comply with the notice, protest, and hearing procedures in Section 53753.

SEC. 5. Section 54984.4 of the Government Code is amended to read:

54984.4. (a) The local agency shall comply with the notice, protest, and hearing procedures in Section 53753.

(b) In the absence of a majority protest, as defined in subdivision (e) of Section 53753, the governing body of the local agency may determine to fix the charge.

SEC. 6. Section 54984.5 of the Government Code is repealed.

SEC. 7. Section 54984.6 of the Government Code is repealed.

SEC. 8. Section 54984.7 of the Government Code is amended to read:

54984.7. If the procedures set forth in this chapter at the time a charge was established were followed, the governing body may, by resolution, continue a charge pursuant to Section 54984.2 in successive years at the same rate. If new, increased, or extended assessments are proposed, the

governing body shall comply with the notice, protest, and hearing procedures in Section 53753.

SEC. 9. Section 54984.8 of the Government Code is amended to read:

54984.8. After the making of a final determination pursuant to Sections 54984.4 and 54984.7, the local agency shall cause the charge to be collected at the same time, and in the same manner, as is available to it under applicable law.

SEC. 10. Section 61124 of the Government Code is amended to read:

61124. (a) A district may charge standby charges for water, sewer, or water and sewer services pursuant to the Uniform Standby Charge Procedures Act, Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5.

(b) If the procedures set forth in the former Chapter 1 (commencing with Section 61750) of the former Part 6 of the former Division 1 as it read at the time a standby charge was established were followed, the district may, by resolution, continue to collect the charge in successive years at the same rate from parcels within the district to which water or sewers are made available for any purpose by the district, whether the water or sewers are actually used or not. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753.

SEC. 11. Section 5471 of the Health and Safety Code is amended to read:

5471. (a) In addition to the powers granted in the principal act, any entity shall have power, by an ordinance approved by a two-thirds vote of the members of the legislative body thereof, to prescribe, revise and collect, fees, tolls, rates, rentals, or other charges for services and facilities furnished by it, either within or without its territorial limits, in connection with its water, sanitation, storm drainage, or sewerage system.

(b) In addition to the powers granted in the principal act, any entity shall have power, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, to prescribe, revise, and collect water, sewer, or water and sewer standby or immediate availability charges for services and facilities furnished by it, either within or without its territorial limits, in connection with its water, sanitation, storm drainage, or sewerage system.

(c) The entity may provide that the charge for the service shall be collected with the rates, tolls, and charges for any other utility, and that any or all of these charges may be billed upon the same bill. Where the charge is to be collected with the charges for any other utility service furnished by a department or agency of the entity and over which its legislative body does not exercise control, the consent of the department

or agency shall be obtained prior to collecting water, sanitation, storm drainage, or sewerage charges with the charges for any other utility. Revenues derived under the provisions in this section, shall be used only for the acquisition, construction, reconstruction, maintenance, and operation of water systems and sanitation, storm drainage, or sewerage facilities, to repay principal and interest on bonds issued for the construction or reconstruction of these water systems and sanitary, storm drainage, or sewerage facilities and to repay federal or state loans or advances made to the entity for the construction or reconstruction of water systems and sanitary, storm drainage, or sewerage facilities. However, the revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers.

(d) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the entity may, by ordinance adopted by a two-thirds vote of the members of the legislative body thereof, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the entity shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 12. Section 13215 of the Public Resources Code is amended to read:

13215. The district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix by ordinance or resolution, on or before the first day of July in each calendar year, water or sewer standby or immediate availability charges. Each such charge shall not individually exceed twelve dollars ($12) per year for each acre of land, or eight dollars ($8) per year for each parcel of land of less than an acre within the district to which water or sewerage could be made available for any purpose by the district, whether the water or sewerage is actually used or not, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The district board may establish schedules varying the charges depending upon factors such as the uses to which the land is put, the cost of supplying such services to the land, and the amount of services used on the land. The district board may restrict the imposition of such charges to lands lying within one or more improvement districts within the district.

The limitations contained in this section shall not apply to any district which levied a standby charge pursuant to the County Service Area Law (Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division

2 of Title 3 of the Government Code) prior to January 1, 1977. Any such district shall be subject to Section 25210.77b of the Government Code.

SEC. 13. Section 13216 of the Public Resources Code is amended to read:

13216. If the procedures set forth in this section as it read at the time a standby or immediate availability charge was established were followed, the district board may, by ordinance or resolution, continue the charge pursuant to Section 13215 in successive years at the same rate. If new, increased, or extended assessments are proposed, the district board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 14. Section 13022 of the Public Utilities Code is amended to read:

13022. (a) A district which acquires, constructs, owns, operates, controls, or uses works for supplying its inhabitants and lands within the district with irrigation water, may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix by resolution on or before the first day of July of each year a water standby or immediate availability charge on all land within its boundaries to which water is made available by the district for irrigation purposes, whether the water is actually used or not. Such charge shall not apply to lands permanently dedicated exclusively to transportation of persons or property.

(b) The board of directors of a district which fixes such a standby charge may establish schedules varying the charges in different areas within a district. The board of directors may not, however, fix an annual standby charge at a rate in excess of ten dollars ($10) per acre or portion thereof, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district's board may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 15. Section 16475 of the Public Utilities Code is amended to read:

16475. (a) A public utility district which acquires, constructs, owns, operates, controls or uses works for supplying its inhabitants with water, may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix and collect a water standby or immediate availability charge on all land within its boundaries to which

water is made available for any purpose by the district, whether the water is actually used or not, except that such charge shall not supply to lands permanently dedicated exclusively to transportation of persons or property. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district's board of directors may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(b) The board of directors of the district which fixes such a charge may establish schedules varying the charges in different months and in different localities within a public utility district depending upon factors such as the uses to which the land is put, the cost of transporting the water to the land, the degree of availability or quantity of use of such water to the affected lands. The board may not, however, fix an annual charge in excess of ten dollars ($10) per acre or in excess of five dollars ($5) for parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) If a person for more than one year obtains substantially all of his or her water requirements for the contiguous parcels of land which he or she occupies from rainfall, springs, streams, lakes, rivers, or wells, and if the person's primary economic activity on such land is the commercial extraction or processing of minerals, such land shall be exempt from any water standby or availability charges.

(d) Any funds derived from the charges levied pursuant to this section may be used by the district for all purposes which a public utility district is authorized to expend funds insofar as said purposes relate to the acquisition, construction, operation, control, or use of works for supplying its inhabitants with water.

SEC. 16. Section 16476 of the Public Utilities Code is repealed.

SEC. 17. Section 16477 of the Public Utilities Code is amended to read:

16477. Notwithstanding Section 16475, the Board of Directors of the Fallbrook Public Utility District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix and collect an annual water standby or immediate availability charge. The standby or immediate availability charge shall not exceed thirty dollars ($30) per acre or any parcel of less than one acre, unless the standby or immediate availability charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing

with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

The Legislature hereby finds and declares that this section, applicable only to the Fallbrook Public Utility District, is necessary because of the unique and special water management problems within that district.

SEC. 18. Section 16478 of the Public Utilities Code is amended to read:

16478. The Board of Directors of the Tahoe City Public Utility District, the Board of Directors of the South Tahoe Public Utility District, and the Board of Directors of the North Tahoe Public Utility District shall each have the authority to fix and collect an annual standby charge for sewage service on all lands within the district under its jurisdiction, in such amount as the board shall specify, provided that such standby charge for sewage service shall not exceed ten dollars ($10) per acre for parcels in excess of one acre or twenty dollars ($20) per parcel for parcels less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

The standby charge authorized by this section shall be imposed only pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code. If the procedures set forth in this section as it read at the time a standby charge was established were followed, that charge pursuant to this section may be levied at the same rate in subsequent years without the requirement of a hearing, provided that if new, increased, or extended assessments are proposed, the board of directors shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

The Legislature hereby finds and declares that this section, applicable only to the Tahoe City Public Utility District, the South Tahoe Public Utility District, and the North Tahoe Public Utility District is necessary because of the unique and special water management, pollution, and sewage disposal problems of the Lake Tahoe Basin.

SEC. 19. Section 22280 of the Water Code is amended to read:

22280. Any district may in lieu in whole or in part of levying assessments fix and collect charges for any service furnished by the district, including, but not limited to, all of the following:

(a) (1) Use, sale, or lease of water, which may include, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, a standby charge whether the water is actually used or not.

(2) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by

resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(b) Delivery of water for irrigation in excess of a specified quantity per unit of land.

(c) Water and the service thereof required by law or provisions of agreements under which all or part of the water supply of the district was acquired to be furnished outside its boundaries to consumers whose rights to service were at the time the supply of water was acquired by the district enforceable by reason of their status as persons of the class for whose benefit the water was appropriated or dedicated.

(d) Use of water for power purposes.

(e) Sale of electric power.

(f) Connections to new pipelines or extensions of existing pipelines required to serve water to lands in the district not adjacent to existing distribution works and which have been constructed in whole or in part at the expense of the district.

(g) Services performed under contracts made pursuant to Section 22234.

(h) Use of water for groundwater recharge.

SEC. 20. Section 31031 of the Water Code is amended to read:

31031. A district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, on or before the first day of July in each calendar year, a water standby or availability charge. The water standby or availability charge shall not exceed ten dollars ($10) per acre per year for each acre of land, or ten dollars ($10) per year for each parcel of land less than an acre within the district to which water is made available for any purpose by the district, whether the water is actually used or not, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The board of directors of a district which fixes such a charge may establish schedules varying such charge according to the land uses and the degree of availability or quantity of use of such water to the affected lands, and may restrict such charge to lands lying within one or more improvement districts within such district. If the procedures set forth in this section as it read at the time a standby or immediate availability charge was established were followed, the board of directors may, by resolution, continue the charge in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 21. Section 31031.8 of the Water Code is amended to read:

31031.8. Notwithstanding any other provision of this division, the Tuolumne Regional Water District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, levy, and collect a water standby or availability charge. The water standby or availability charge shall not exceed thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre, to which water is made available for any purpose by the district, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). If the procedures set forth in this section as it read at the time a standby charge was established were followed, the Tuolumne Regional Water District may, by a four-fifths vote of the members of the board of directors, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 22. Section 31032.1 of the Water Code is amended to read:

31032.1. A district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, as an alternative to the charge prescribed by Section 31031, in each fiscal year, water standby or availability assessments of not to exceed thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre within the district to which water is made available for any purpose by the district, whether the water is actually used or not, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The board of directors of a district that fixes the assessment may establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of water to the affected lands, and may restrict the assessment to lands lying within one or more improvement districts within the district. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the board of directors may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

A district may elect to have the assessments for the fiscal year collected on the tax roll in the same manner, by the same persons and at the same time as, together with and not separately from, its general taxes. In that

event, it shall cause a written report to be prepared and filed with the secretary which report shall contain a description of each parcel of real property and the amount of the assessment for each parcel for the year.

SEC. 23. Section 31032.10 of the Water Code is amended to read:

31032.10. (a) Notwithstanding any other provision of this division, the Yorba Linda County Water District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, in each fiscal year, within Improvement District No. 2 of the district, water standby or availability assessments of not to exceed two hundred fifty dollars ($250) per year for (1) each acre or portion thereof or, in the alternative, (2) each residential unit, or the equivalent thereof as to property designated for other than residential purposes, not to exceed the maximum number of residential units or the equivalent thereof established in the General Plan for the property within Improvement District No. 2 adopted by the City of Yorba Linda on June 1, 1981, regardless of any amendment or revision of the General Plan, whether or not a residential unit or the equivalent thereof is actually constructed and whether the water is actually used or not. The Board of Directors of the Yorba Linda County Water District shall establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of the water to the affected lands within Improvement District No. 2. If the assessment is to be collected on the basis of units, the written consent of the owner of the property to be assessed on the basis of units shall be obtained.

(b) The Yorba Linda County Water District may elect to have the assessments authorized by subdivision (a) for the fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time as, and together with and not separately from, county taxes. In that event, the district shall prepare a written report which shall be filed with the secretary. The report shall contain a description of each parcel of real property and the amount of the assessment for each parcel for the year. If the assessment is to be assessed on a residential unit or equivalent basis as described in subdivision (a), the assessment for each assessor's parcel shall be determined by multiplying the estimated number of residential units or the equivalent thereof proposed at that time for the assessor's parcel by the proposed amount per residential unit as shown in the assessor's parcels in Improvement District No. 2 for the particular fiscal year.

(c) The water standby or availability assessment authorized by this section shall not be imposed on any subdivided parcel upon which there exists a residential unit which has been connected to domestic water facilities of the Yorba Linda County Water District.

(d) If the procedures set forth in this section as it read at the time a standby or availability assessment was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(e) This section shall have no force or effect after January 1, 1989, except to the extent necessary to raise funds for interest or principal payments on bonds of Improvement District No. 2 issued prior to such date.

SEC. 24. Section 31032.12 of the Water Code is amended to read:

31032.12. (a) Notwithstanding any other provision of this division, the Yorba Linda County Water District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, in each fiscal year, within Improvement District No. 1 of the district, water standby or availability assessments of not to exceed ninety dollars ($90) per year for each acre or portion thereof, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The Board of Directors of the Yorba Linda County Water District may vary the assessment according to the land uses and the degree of availability or quantity of use of water upon the affected lands within Improvement District No. 1.

(b) The Yorba Linda County Water District may elect to have the assessments authorized by subdivision (a) for the fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time, as, and together with and not separately from, county taxes. In that event, the district shall prepare a written report which shall be filed with the secretary. The report shall contain a description of each parcel of real property and the amount of the assessment for each parcel for the year.

(c) The water standby or availability assessment authorized by this section shall not be imposed on any subdivided parcel with respect to which building permits have been issued prior to March 1 of each year or which has been connected to domestic water facilities of the Yorba Linda County Water District prior to July 1 of each year.

(d) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the board of directors may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(e) The purpose of this section is to provide a method whereby the Yorba Linda County Water District may more fairly allocate the cost of providing capital water facilities among the lands and present and future inhabitants of Improvement District No. 1 according to the benefit received. Accordingly, the proceeds of the assessment authorized by subdivision (a) shall be used only: (1) to supplement the proceeds of the ad valorem property tax levied by the Yorba Linda County Water District within Improvement District No. 1 to pay debt service on the Series A and Series B 1978 Water Bonds and additional general obligation bonded indebtedness, not to exceed the amount of five million dollars ($5,000,000), of the Improvement District No. 1; and (2) to pay the cost of the proceedings incurred pursuant to this section.

SEC. 25. Section 31104 of the Water Code is amended to read:

31104. A district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, levy and collect a sewage and waste service standby or availability charge. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the county board of supervisors may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 26. Section 31104.5 of the Water Code is amended to read:

31104.5. In lieu of the standby or availability charge authorized to be levied and collected pursuant to Section 31104, the Crescenta Valley County Water District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, levy, and collect a sewage and waste service standby or availability charge not to exceed sixty dollars ($60) per available sewer connection per year, unless the standby or availability charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). If the procedures set forth in this section as it read at the time a standby charge was established were followed, the Crescenta Valley County Water District may, by an ordinance approved by a two-thirds vote of the members of the legislative body thereof, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 27. Section 31104.7 of the Water Code is amended to read:

31104.7. Notwithstanding any other provision of this division, the Tuolumne Regional Water District may, pursuant to the notice, protest,

and hearing procedures in Section 53753 of the Government Code, fix, levy, and collect a sewage and waste service standby or availability charge of not more than thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre, to which sewer service is made available by the district, unless the standby or availability charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). If the procedures set forth in this section as it read at the time a standby or availability charge was established were followed, the Tuolumne Regional Water District may, by a four-fifths vote of the members of the board of directors, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 28. Section 31104.8 of the Water Code is amended to read:

31104.8. (a) Notwithstanding any other provision of this division, the Santa Ana Mountains County Water District may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, in each fiscal year, within Community Facilities District No. 2 of the district, sewage and waste service standby or availability assessments of not more than two hundred fifty dollars ($250) per year for each acre or portion thereof to which sewage and waste service is immediately available, unless the standby or availability assessment is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The Board of Directors of the Santa Ana Mountains County Water District may establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of the sewer capacity to the affected lands.

(b) The Santa Ana Mountains County Water District may elect to have the assessments authorized by subdivision (a) for the fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time, as, and together with and not separately from, county taxes. In that event, the district shall prepare a written report which shall be filed with the secretary. The report shall contain a description of each parcel of real property and the amount of the assessment for each parcel for the year.

(c) The sewage and waste service standby or availability assessment authorized by this section shall not be imposed on any subdivided parcel upon which there exists a residential unit which has been connected to

domestic sewer facilities of the Santa Ana Mountains County Water District.

(d) If the procedures set forth in this section as it read at the time a standby or availability assessment was established were followed, the Santa Ana Mountains County Water District may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 29. Section 35470 of the Water Code is amended to read:

35470. Any district formed on or after July 30, 1917, may, in lieu in whole or in part of raising money for district purposes by assessment, make water available to the holders of title to land or the occupants thereon, and may fix and collect charges therefor. Pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, the charges may include standby charges to holders of title to land to which water may be made available, whether the water is actually used or not. The charges may vary in different months and in different localities of the district to correspond to the cost and value of the service, and the district may use so much of the proceeds of the charges as may be necessary to defray the ordinary operation or maintenance expenses of the district and for any other lawful district purpose.

SEC. 30. Section 35470.1 is added to the Water Code, to read:

35470.1. If the procedures set forth in this article as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this article in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 31. Section 37210.1 is added to the Water Code, to read:

37210.1. In levying a standby charge, the board of any district which has elected, pursuant to Section 37203, to proceed under this part shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 32. Section 37210.2 is added to the Water Code, to read:

37210.2. If the procedures set forth in this part as it read at the time a standby charge was established were followed, the board may, by resolution, continue the charge pursuant to this part in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 33. Section 50902 of the Water Code is amended to read:

50902. (a) In addition to its other powers, a district may, by a resolution of the board at a noticed public hearing, fix and collect charges and fees, including minimum and standby charges, for the provision of benefits and services.

(b) Notice of the public hearing shall be given by publication once a week for two successive weeks in a newspaper of general circulation published in the principal county.

(c) The board, in fixing the charges and fees, may establish the dates of delinquency and may impose penalties for delinquency not exceeding 10 percent of the amount of the charge or fee and may, in addition, collect interest at a rate not to exceed 1.5 percent per month from the date of delinquency on all delinquent charges and fees. The district may sue for the recovery of unpaid charges and fees or the unpaid charges or fees may be added to the operation and maintenance assessment in the same manner as unpaid water charges pursuant to Section 51440.

(d) The revenue obtained from charges and fees may be in lieu of, or supplemental to, revenue obtained in any other manner and may be used for any district purpose and the payment of any district obligation.

(e) After a charge or fee is initially fixed by the board at a noticed public hearing, the board may subsequently reduce that amount of that charge or fee without notice or a public hearing.

(f) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the board may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 34. Section 50911 of the Water Code is amended to read:

50911. When a district has adopted plans for the irrigation of district lands it may:

(a) Adopt rules and regulations for the distribution of water.

(b) Adopt a schedule of rates to be charged by the district for furnishing water for the irrigation of district lands. The schedule of rates may include standby charges to holders of title to land to which water may be made available, whether the water is actually used or not. The standby charge shall not exceed twenty dollars ($20) per year for each acre of land or for a parcel less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive

years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(d) Collect the charges from the persons to or for whom the water was furnished and from the holders of title to land to which water has been made available, whether used or not.

(e) Sue for the recovery of the unpaid charges.

SEC. 35. Section 52402 of the Water Code is amended to read:

52402. A district may, by resolution or indenture, prescribe and revise charges for the services of its properties, works, and facilities, singly or as a whole, or for the providing of such properties, works, or facilities, or for their availability, including minimum and standby charges. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 36. Section 55501.5 of the Water Code is amended to read:

55501.5. A district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix a water service standby or immediate availability charge to be applied on an area or frontage or parcel basis, or a combination thereof, within the district to be charged to areas to which water service is made available for any purpose by the district, whether the water service is actually used or not. The district may establish schedules varying the charge according to the land uses and the degree of availability or quantity of use of the water service to the affected lands, and may restrict the charge to lands lying within one or more zones or areas of benefits established within the district. The district may not, however, except as is otherwise provided in this section, fix a charge in excess of thirty dollars ($30) per acre or for a parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

If the procedures set forth in this section as it read at the time a standby or availability charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

The maximum charge which may be fixed by the district may be increased from one fiscal year to the next by the same percentage increase as reflected by the Consumer Price Index, as issued by the United States Bureau of Labor Statistics, relative to the immediately preceding fiscal year.

If a person for more than one year obtains substantially all of his or her water requirements for the contiguous parcels of land which the person occupies from rainfall, springs, streams, lakes, rivers or wells, and if the person's primary economic activity on the land is the commercial extraction or processing of minerals, the land is exempt from any water standby or availability charges.

The district may collect the standby or availability charge by billing the charged lands on a fiscal year basis or by other means available.

The district may collect the standby or availability charge as a part of the annual general county tax bill if the district furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed, together with the amount of the charge applicable to each parcel, in sufficient time to meet the schedule established by the county for inclusion of those items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In that case, the standby or availability charge is a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby or availability charge, or the amount thereof unpaid, in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. All laws applicable to the levy, collection, and enforcement of municipal ad valorem taxes are applicable to those charges, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the charge relating to the property shall be transferred to the unsecured roll for collection.

If the district collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 37. Section 55507 of the Water Code is amended to read:

55507. A district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix a sewer service standby or immediate availability charge to be applied on a parcel basis within the district to be charged to the parcels to which sewer service is made available by the district, whether the sewer service is actually used or not. The district may establish schedules for the charge, and may restrict the charge to lands lying within one or more zones or areas of benefits established within the district. The district may not, unless the standby charge is imposed pursuant to the Uniform Standby Charge

Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code), fix a charge in excess of thirty dollars ($30) a year for a residential parcel. Commercial or other parcels shall be charged according to equivalent residential parcels, but shall not exceed thirty dollars ($30) per acre per year, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

If the procedures set forth in this section as it read at the time a standby or availability charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

The district may collect the standby or availability charge by billing the charged lands on a fiscal year basis or by other means available.

The district may collect the standby or availability charge as a part of the annual general county tax bill if the district furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed, together with the amount of the charge applicable to each parcel, in sufficient time to meet the schedule established by the county for inclusion of those items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In that case, the standby or availability charge shall become a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby or availability charge, or the amount thereof unpaid, in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. All laws applicable to the levy, collection, and enforcement of municipal ad valorem taxes are applicable to those charges, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the charge relating to the property shall be transferred to the unsecured roll for collection.

If the district collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 38. Section 71630 of the Water Code is amended to read:

71630. The district by ordinance may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix on or before the third Monday of August, in each fiscal year, a water standby assessment or availability charge in the district, in any portion thereof, or in any improvement district, to which water is made available by the district, whether the water is actually used or not.

SEC. 39. Section 71632 of the Water Code is amended to read:

71632. The ordinance fixing a standby assessment or availability charge shall be adopted by the board pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code and only after adoption of a resolution setting forth the particular schedule or schedules of charges or assessments proposed to be established by ordinance and after a hearing on said resolution.

If the procedures set forth in this section as it read at the time a standby assessment or availability charge was established were followed, the board may, by ordinance, continue the charge pursuant to this article in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 40. Section 71638 of the Water Code is amended to read:

71638. If the procedures set forth in this article as it read at the time a standby charge was established were followed, the district or improvement district may, by resolution, continue the charge pursuant to this article in successive years at the same rate. If new, increased, or extended assessments are proposed, the district or improvement district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 41. Section 71638.3 of the Water Code is repealed.

SEC. 42. Section 5.2 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 5.2. (a) Any authority may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, by ordinance, fix on or before the third Monday of August, in each fiscal year, a water standby availability charge on land within the boundaries of the authority, to which water is made available by the authority, whether the water is actually used or not.

(b) The standby availability charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the authority or ten dollars ($10) per year for a parcel less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) If the procedures set forth in this section as it read at the time an availability charge was established were followed, the authority may, by ordinance, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the authority shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(d) On or before the third Monday in August, the board of directors shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of that parcel of land within the authority upon which an availability charge is to be levied and collected for the current fiscal year, together with the amount of availability charge fixed by the authority on each parcel of land which is to be added to the assessment roll.

(e) The authority shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other taxes levied, the availability charge in the amounts for the respective parcels fixed by the authority.

(f) All county officers charged with the duties of collecting taxes shall collect the authority's availability charges with the regular tax payments to the county. The availability charges shall be collected in the same form and manner as county taxes are collected, including procedures in the event of delinquency. Upon collection of the availability charges by the tax collector, the collections shall be paid to the authority. The county may deduct the reasonable administrative costs incurred in levying and collecting the water standby availability charge.

SEC. 43. Section 27.6 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

Sec. 27.6. (a) The board may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix a water standby or availability charge for land within the district to which water is made available for any purpose by the district, whether the water is actually used or not. The charges may be restricted to lands lying within one or more improvement districts or zones or any portion thereof within the district. The charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the district or any improvement district or zone thereof or ten dollars ($10) per year for any parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The board may establish schedules varying the charges depending

upon, but not limited to, factors such as land uses, water uses, the cost of transporting the water to the land, and the degree of water availability.

(b) In order to fix the charges, the board shall adopt a resolution pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 44. Section 3.8 of the Mariposa County Water Agency Act (Chapter 2036 of the Statutes of 1959) is amended to read:

Sec. 3.8. The agency may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix standby charges to be applied on an area, frontage, or parcel basis, or a combination thereof, to those areas within the agency to which service is made available, whether the service is actually used or not, for the purpose of financing or maintaining and operating projects which the agency is authorized to undertake. The agency may establish schedules varying the charges according to the land uses and the degree of availability or quantity of use of the service to the affected lands, and may restrict the charge to lands lying within one or more zones established within the agency. However, the agency may not: (1) fix an annual charge in excess of ten dollars ($10) for each acre or for each parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code); (2) apply standby charges to parcels that are being used for the production of plant crops, including timber, or livestock for market; or (3) apply standby charges to lands situated more than one-quarter of a mile from an available main or service connection. The agency may collect the standby charges as a part of the annual general county tax bill, provided the agency furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel in sufficient time to meet the schedule established by the county for inclusion of those items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In those cases, the standby charge shall become a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby charge or the amount thereof unpaid in

the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. If the agency collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 45. Section 3.9 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is amended to read:

Sec. 3.9. The agency may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix standby charges to be applied on an area, or frontage, or parcel basis, or a combination thereof, to such areas within the agency to which service is made available, whether the service is actually used or not, for the purpose of financing or maintaining and operating projects which the agency is authorized to undertake. The agency may establish schedules varying those charges according to the land uses and the degree of availability or quantity of use of such service to the affected lands, and may restrict that charge to lands lying within one or more improvement districts or areas of benefits established within the agency; provided, however, that the agency may not: (1) fix an annual charge in excess of ten dollars ($10) for each acre or for each parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code); (2) apply standby charges to parcels that are being used for the production of plant crops, including timber, or livestock for market; or (3) apply standby charges to lands situated more than one-quarter of a mile from an available main or service connection. The agency may collect the standby charges as a part of the annual general county tax bill, provided the agency furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel in sufficient time to meet the schedule established by the county for inclusion of such items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In such cases, the standby charge shall become a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby

charge or the amount thereof unpaid in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. If the agency collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 46. Section 76 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 76. The agency, by ordinance, may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars ($10) per year for any parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. Such charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall constitute a lien on the property benefited thereby as of the same time and in the same manner as does

the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the board may, by ordinance, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 47. Section 11.5 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of the First Extraordinary Session of 1962) is amended to read:

Sec. 11.5. The agency, by ordinance, may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix, on or before the first day of July in each calendar year, a water standby or availability charge in any area within the agency boundaries to which wholesale or retail water is made available by the agency, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land or parcel less than one acre within the agency boundaries, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. If any standby charge remains unpaid on the first day of the month before the month in which the board of supervisors of each affected county is required by law to levy the amount of taxes required for county purposes, the amount of the unpaid standby charge shall be added to and become part of the annual tax levied upon the land to which water for which the standby charge is unpaid was available. The amount of the unpaid standby charge shall constitute a lien on that land as of the same time and in the same manner as does the tax lien securing the annual taxes. All laws applicable to the levy, collection, and enforcement of municipal ad valorem taxes shall be applicable to the assessment, except that if any real property to which the lien would attach has been transferred or conveyed to a bona

fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the delinquent and unpaid charges relating to the property shall be transferred to the unsecured roll for collection. At least 15 days before the first day of the month in which the board of supervisors of each affected county is required by law to levy the amount of taxes required for county purposes, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a standby charge remains unpaid, together with the amount of the unpaid standby charge on each such parcel of land.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge, pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 48. Section 24.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of the First Extraordinary Session of 1962) is amended to read:

Sec. 24.1. The agency, by resolution, may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, annually fix on the basis of benefit a water standby charge within any water service area of the agency to which water is made available. The agency may cause the water standby charge to be applied on an area or parcel basis, or a combination of both, to benefited lands, whether water available is actually used or not. The agency may fix and establish in its adopting resolution appropriate schedules varying the water standby charges within its water service areas according to the land uses and the degree of availability to affected lands. Availability of water pursuant to this section shall include, without limitation, the agency's contract interests pursuant to the State Water Resources Development System and the agency's property, plant, and distribution facilities. The water standby charge of the agency shall not exceed forty dollars ($40) per acre per year for each acre of land, or forty dollars ($40) per year for any parcel of land less than one acre, within any water service area of the agency, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The resolution fixing water standby charges shall be adopted by the board of directors only at or after the annual hearing on the formation of water

service areas within the agency. The agency may use the proceeds of the water standby charges only for the annual capital budget of the agency, as described in Section 29.1.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

On or before the second Monday in August of each year in which a water standby charge is to be levied and collected for the then current fiscal year, the board of directors shall furnish in writing to the county auditor of each affected county the parcel number of each parcel of land within any water service area within the agency upon which a charge is to be levied and collected, together with the amount of the water standby charge fixed by the agency on each assessed parcel of land subject to the levy. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax, assessment, or charge it levies, a water standby charge in the amounts and on the respective parcels identified by the agency's board. All county officers charged with the duty of collecting, receiving, and disbursing taxes shall collect agency water standby charges with the regular tax payments to the county. The charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. The agency shall reimburse the county for its necessary costs and expenses. Any water service charges fixed by the agency shall be liens against the parcels of land against which those charges have been imposed. Liens for those charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for either state or county taxes.

SEC. 49. Section 134.5 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 134.5. (a) The board may, from time to time, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, impose a water standby or availability service charge within a district. The amount of revenue to be raised by the service charge shall be as determined by the board.

(b) Allocation of the service charge among member public agencies shall be in accordance with a method established by ordinance or resolution of the board. Factors that may be considered include, but are not limited to, historical water deliveries by a district; projected water service demands by member public agencies of a district; contracted

water service demands by member public agencies of a district; service connection capacity; acreage; property parcels; population, and assessed valuation, or a combination thereof.

(c) The service charge may be collected from the member public agencies of a district. As an alternative, a district may impose a service charge as a standby charge against individual parcels within the district. In implementing this alternative, a district may exercise the powers of a county water district under Section 31031 of the Water Code, except that, notwithstanding Section 31031 of the Water Code, a district may (1) raise the standby charge rate above ten dollars ($10) per year by a majority vote of the board, and (2) after taking into account the factors specified in subdivision (b), fix different standby charge rates for parcels situated within different member public agencies.

(d) Before imposing or changing any water standby or availability service charge pursuant to this section, a district shall give written notice to each member public agency not less than 45 days prior to final adoption of the imposition or change.

(e) As an alternative to the two methods set forth in subdivision (c), a district, at the option of its board, may convert the charge to a benefit assessment to be levied pursuant to Sections 134.6 to 134.9, inclusive.

SEC. 50. Section 134.6 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 134.6. (a) The board may by ordinance or resolution, adopted pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, determine and propose for adoption an annual water standby or availability assessment on each parcel of real property within the jurisdiction of each member public agency of the district, except that the board shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) The board may establish zones or areas of benefit within the district or within its member public agencies and may restrict the imposition of the assessments to areas lying within one or more of the zones or areas of benefit established within the district or within its member public agencies.

(c) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the district, member public agency, zone, or area of benefit.

(d) The assessment may be levied against any parcel, improvement, or use of property to which water service, through a member public agency, may be made available, directly or indirectly, whether or not that service is actually used.

SEC. 51. Section 134.7 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 134.7. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to Section 134.6 in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 52. Section 721 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 721. The district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix standby charges to be applied on an area, or frontage, or parcel basis, or a combination thereof, to such areas within the agency to which service is made available, whether the service is actually used or not, for the purpose of financing or maintaining and operating projects or works which the district is authorized to undertake. The district may establish schedules varying the charges according to the land uses and the degree of availability or quantity of use of the service to the affected lands, and may restrict the charge to lands lying within one or more zones established within the district; provided, however, that the district may not: (1) fix an annual charge in excess of ten dollars ($10) for each acre or for each parcel of less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code); (2) apply standby charges to parcels that are being used for the production of livestock for market or plant crops, including timber; or (3) apply standby charges to lands situated more than one-quarter of a mile from an available main or service connection.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 53. Section 441 of the Colusa County Flood Control and Water Conservation District Act (Chapter 926 of the Statutes of 1983) is amended to read:

Sec. 441. The district shall have authority, by resolution pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, to levy a standby or carrying charge against each acre of land or fraction thereof to which a service provided by the district

is available, irrespective of whether the service is actually used. The standby or carrying charge shall not exceed ten dollars ($10) per acre or fraction per year, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 54. Section 441 of the Sutter County Flood Control and Water Conservation District Act (Chapter 688 of the Statutes of 1984) is amended to read:

Sec. 441. The district shall have authority, by resolution, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, to levy a standby or carrying charge against each acre of land or fraction thereof to which a service provided by the district is available, irrespective of whether the service is actually used. The standby or carrying charge shall not exceed ten dollars ($10) per acre or fraction of acre per year, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 55. Section 441 of the Placer County Flood Control and Water Conservation District Act (Chapter 689 of the Statutes of 1984) is amended to read:

Sec. 441. The district shall have authority, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, to levy a standby or carrying charge against each acre of land or fraction thereof to which a service provided by the district is available, irrespective of whether the service is actually used. The standby or carrying charge shall not exceed ten dollars ($10) per acre or fraction of acre per year, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the district shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 56. Section 420 of the Colusa Basin Drainage District Act (Chapter 1399 of the Statutes of 1987) is amended to read:

Sec. 420. (a) The board may, by resolution following notice and public hearing, fix rates or charges for services provided by the district reflecting the reasonable cost and value of providing that service. If the board determines that rates or charges for services are an appropriate means for raising the cost of those services in lieu of, or in addition to, the assessment provided in Part 7 (commencing with Section 700), the board shall adopt a resolution determining those rates or charges for services provided that are deemed to be appropriate and directing that notice be given of the proposed fixing of rates or charges. The resolution shall identify the nature of the rate or charge proposed to be fixed, the area in which the rate or charge is to be imposed, and the nature of the benefit for which the rate or charge shall be collected.

A notice of the resolution shall be published once a week for two successive weeks in a newspaper of general circulation published in the county seat of each county located within the area as to which the rates or charges are to be made applicable. The notice shall recite the time and date of the hearing to be held by the board upon the proposed rates or charges.

At the conclusion of the hearing, the board may adopt a resolution fixing the rates or charges, setting forth the area within which the rate or charge shall be applied, the amount, the charge, and the nature of the

service for which the rate or charge is imposed. One week prior to the date on which the rate or charge is made payable, a notice shall be published in the same newspaper of general circulation setting forth the nature and amount of the charge, the due date, the delinquency date, and the penalty and interest to be imposed if not paid prior to delinquency.

(b) The board may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix standby charges not to exceed ten dollars ($10) per year per acre or parcel less than an acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). If the procedures set forth in this section as read at the time a standby charge was established were followed, the board may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 57. Section 12 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 12. (a) The agency, by ordinance, may fix, on or before August 31 in each calendar year, a water standby or availability charge for any lands to which water is made available by the agency, whether the water is actually used or not. The water standby charge shall be used for ongoing maintenance and operation of the zones of the agency upon which the charge is imposed, as well as for retirement of any bonded indebtedness attributable to that zone.

(b) The standby charge for each zone shall not exceed fifteen dollars ($15) per acre per year for each acre of land or fifteen dollars ($15) per year for a parcel less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) The ordinance fixing a standby charge shall be adopted by the board only pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code.

If the procedures set forth in this section as it read at the time a standby charge was established were followed, the agency may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the agency shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(d) The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability.

(e) The board shall furnish in writing to the county board of supervisors and the county auditor a description of each parcel of land within the agency upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the agency on each parcel of land.

(f) The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes the board of supervisors shall levy, in addition to any other tax it levies, the standby charge in the amounts for the respective parcels fixed by the board.

(g) All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. The charges shall be collected in the same form and manner as county taxes are collected, and shall be paid to the agency.

(h) Charges fixed by the agency, including water tolls or charges, shall be a lien on all property against which the charge is imposed or to which the water is delivered. Liens for the charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

SEC. 58. Section 603 of the San Diego Area Wastewater Management District Act (Chapter 803 of the Statutes of 1992) is amended to read:

Sec. 603. The board may, by ordinance, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix on or before the third Monday in August in each fiscal year, a sewer standby availability charge on land within the boundaries of the district to which sewer services are made available by the district, whether the service is actually used or not.

SEC. 59. Section 604 of the San Diego Area Wastewater Management District Act (Chapter 803 of the Statutes of 1992) is amended to read:

Sec. 604. The sewer standby availability charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after a public hearing on the resolution. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the board may, by ordinance, continue the charge pursuant to Section 603 in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 60. (a) The Legislature finds and declares all of the following:

(1) On November 5, 1996, the voters of California adopted Proposition 218, "The Right to Vote on Taxes Act," which comprises Articles XIII C and XIII D of the California Constitution.

(2) Numerous statutes relating to local finance that were enacted prior to the passage of Proposition 218, including many relating to the imposition of standby charges, are inconsistent with the constitutional requirements established by Proposition 218 and subsequent implementing legislation.

(3) The continued presence of these outdated provisions in state statutes, more than a decade after Proposition 218 took effect, may cause confusion and uncertainty among property owners subject to standby charges or local agencies seeking to fix standby charges in compliance with Proposition 218.

(b) It is the intent of the Legislature in enacting this act to conform statutory language relating to the imposition of standby charges by local agencies to the requirements of Article XIII D of the California Constitution and its implementing statutes. This act is intended to be declaratory of existing law.

CHAPTER 28

An act to amend Section 5540.5 of the Public Resources Code, relating to public resources.

[Approved by Governor July 2, 2007. Filed with Secretary of State July 2, 2007.]

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

SECTION 1. Section 5540.5 of the Public Resources Code is amended to read:

5540.5. (a) Notwithstanding Section 5540, a district, with the approval by a unanimous vote of the members of its board of directors, may exchange real property, or an interest in real property, dedicated and used for park or open-space purposes, or both park and open-space purposes, for real property, or an interest in real property, that the board of directors determines to be of equal or greater value and is necessary to be acquired for park or open-space purposes, or both park and open-space purposes.

(b) A district shall not in a calendar year exchange more than 10 acres of district-owned real property, or an interest in real property, pursuant to this section for other real property, or an interest in real property, and

the real property, or interest in real property, acquired by the district shall be adjacent to other real property owned by the district.

(c) Notwithstanding subdivision (b), the East Bay Regional Park District, the Midpeninsula Regional Open Space District, and the Sonoma County Agricultural Preservation and Open Space District may exchange up to a maximum of 40 acres, of district-owned real property or an interest in real property in a calendar year pursuant to this section, for other real property or an interest in real property, and real property or an interest in real property so acquired by the district shall be adjacent to other real property owned by the district.

CHAPTER 29

An act to amend Section 15.1 of Chapter 1069 of the Statutes of 1961, relating to the Desert Water Agency.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 15.1 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961) is amended to read:

SEC. 15.1. The agency shall have the power to construct, operate, and maintain facilities for the generation of electricity that are hydroelectric or eligible renewable energy resources as defined in Section 399.12 of the Public Utilities Code, for use by the agency in the operation of its works or as a means of assisting in financing the construction, operation, and maintenance of its projects for the control, conservation, diversion, and transmission of water, or for the construction, treatment, and disposal of sewage, and to enter into contracts for the sale of electricity generated by the agency for a term not to exceed 50 years. The electricity may be marketed only at wholesale to any public agency or private entity, or both, or the federal or state government. For the purposes of this section, "disposal of sewage" includes the sale or resale of treated effluent for any purposes.

CHAPTER 30

An act to add Section 12751 to the Health and Safety Code, relating to flamethrowing devices.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 12751 is added to the Health and Safety Code, to read:

12751. This part shall not apply to the sale, purchase, possession, transportation, storage, or use of a flamethrowing device by a person if all of the following apply:

(a) The person is regularly employed by or a paid officer, employee, or member of a fire department, fire protection district, or firefighting agency of the federal government, the state, a city, a county, a city and county, district, public or municipal corporation, or political subdivision of this state.

(b) The person is on duty and acting within the course and scope of his or her employment.

(c) The flamethrowing device is used by the fire department, fire protection district, or firefighting agency described in subdivision (a) in the course of fire suppression.

CHAPTER 31

An act to amend Section 4005 of the Harbors and Navigation Code, to amend Section 4662 of the Labor Code, and to amend Sections 26 and 31 of the Penal Code, relating to mental incapacity.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 4005 of the Harbors and Navigation Code is amended to read:

4005. If the owner of the land is a nonresident of the county the sheriff may make service by leaving a copy of the notice of application with the occupant, or agent of the owner. If there is no occupant, or agent of the owner, the sheriff may place a copy in the post office addressed to the owner thirty days prior to the day set for the hearing. If the owner is a minor, insane, mentally incapacitated, or a decedent, notice shall be served on his guardian, administrator, or other legal representative.

SEC. 2. Section 4662 of the Labor Code is amended to read:

4662. Any of the following permanent disabilities shall be conclusively presumed to be total in character:

(a) Loss of both eyes or the sight thereof.

(b) Loss of both hands or the use thereof.

(c) An injury resulting in a practically total paralysis.

(d) An injury to the brain resulting in incurable mental incapacity or insanity.

In all other cases, permanent total disability shall be determined in accordance with the fact.

SEC. 3. Section 26 of the Penal Code is amended to read:

26. All persons are capable of committing crimes except those belonging to the following classes:

One—Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

Two—Persons who are mentally incapacitated.

Three—Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

Four—Persons who committed the act charged without being conscious thereof.

Five—Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

Six—Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused.

SEC. 4. Section 31 of the Penal Code is amended to read:

31. All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising, or encouraging children under the age of fourteen years, or persons who are mentally incapacitated, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command, or coercion, compel another to commit any crime, are principals in any crime so committed.

SEC. 5. It is the intent of the Legislature, in enacting this act, not to adversely affect decisional case law that has previously interpreted, or

used, the terms "idiot," "imbecility," or "lunatic," or any variation thereof.

CHAPTER 32

An act to amend Section 2782 of the Civil Code, relating to construction contracts.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 2782 of the Civil Code is amended to read:

2782. (a) Except as provided in Sections 2782.1, 2782.2, 2782.5, and 2782.6, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract and that purport to indemnify the promisee against liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence or willful misconduct of the promisee or the promisee's agents, servants, or independent contractors who are directly responsible to the promisee, or for defects in design furnished by those persons, are against public policy and are void and unenforceable; provided, however, that this section shall not affect the validity of any insurance contract, workers' compensation, or agreement issued by an admitted insurer as defined by the Insurance Code.

(b) Except as provided in Sections 2782.1, 2782.2, and 2782.5, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract with a public agency that purport to impose on the contractor, or relieve the public agency from, liability for the active negligence of the public agency are void and unenforceable.

(c) For all construction contracts, and amendments thereto, entered into after January 1, 2006, for residential construction, as used in Title 7 (commencing with Section 895) of Part 2 of Division 2, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any construction contract, and amendments thereto, that purport to indemnify, including the cost to defend, the builder, as defined in Section 911, by a subcontractor against liability for claims of construction defects are unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the builder or the builder's other agents, other servants, or other independent contractors who are directly responsible to the builder, or for defects in design furnished by those persons, or to

the extent the claims do not arise out of, pertain to, or relate to the scope of work in the written agreement between the parties. This section shall not be waived or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(d) Subdivision (c) does not prohibit a subcontractor and builder from mutually agreeing to the timing or immediacy of the defense and provisions for reimbursement of defense fees and costs, so long as that agreement, upon final resolution of the claims, does not waive or modify the provisions of subdivision (c). Subdivision (c) shall not affect the obligations of an insurance carrier under the holding of Presley Homes, Inc. v. American States Insurance Company (2001) 90 Cal.App.4th 571. Subdivision (c) shall not affect the builder's or subcontractor's obligations pursuant to Chapter 4 (commencing with Section 910) of Title 7 of Part 2 of Division 2.

(e) (1) For all construction contracts, and amendments thereto, entered into after January 1, 2008, for residential construction, as used in Title 7 (commencing with Section 895) of Part 2 of Division 2, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any construction contract, and amendments thereto, that purport to indemnify, including the cost to defend, the general contractor or contractor that is not affiliated with the builder, as described in subdivision (b) of Section 911, by a subcontractor against liability for claims of construction defects are unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the nonaffiliated general contractor or nonaffiliated contractor or their other agents, other servants, or other independent contractors who are directly responsible to the nonaffiliated general contractor or nonaffiliated contractor, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in the written agreement between the parties. This section shall not be waived or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(2) Paragraph (1) does not prohibit a subcontractor and the nonaffiliated general contractor or nonaffiliated contractor from mutually agreeing to the timing or immediacy of the defense and provisions for reimbursement of defense fees and costs, so long as that agreement, upon final resolution of the claims, does not waive or modify the provisions of paragraph (1). Paragraph (1) shall not affect the obligations of an insurance carrier under the holding of Presley Homes, Inc. v. American States Insurance Company (2001) 90 Cal.App.4th 571. Paragraph (1)

shall not affect the builder's, nonaffiliated general contractor's, nonaffiliated contractor's, or subcontractor's obligations pursuant to Chapter 4 (commencing with Section 910) of Title 7 of Part 2 of Division 2.

CHAPTER 33

An act to amend Section 48204 of the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 48204 of the Education Code, as added by Section 2 of Chapter 529 of the Statutes of 2003, is amended to read:

48204. (a) Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district, if he or she is any of the following:

(1) (A) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(B) An agency placing a pupil in a home or institution described in subparagraph (A) shall provide evidence to the school that the placement or commitment is pursuant to law.

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) A school district may deem a pupil to have complied with the residency requirements for school attendance in the district if at least one parent or the legal guardian of the pupil is physically employed within the boundaries of that district.

(1) This subdivision does not require the school district within which at least one parent or the legal guardian of a pupil is employed to admit the pupil to its schools. A school district shall not, however, refuse to admit a pupil under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or the legal guardian of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2), or (3) is encouraged to identify, and communicate in writing to the parents or the legal guardian of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

(6) Unless approved by the sending school district, this subdivision does not authorize a net transfer of pupils out of a school district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in a fiscal year in excess of the following amounts:

(A) For a school district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For a school district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.

(C) For a school district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district the boundaries of which include the location where at least one parent or the legal guardian of a pupil is physically employed, the pupil does not have to reapply in the next school year to attend a school within that district and the district governing board shall allow the pupil to attend school through grade 12 in that district if the parent or legal guardian so chooses and if at least one parent or the legal guardian of the pupil continues to be physically employed by an employer situated within the attendance boundaries of the district, subject to paragraphs (1) to (6), inclusive.

(c) This section 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. 2. Section 48204 of the Education Code, as amended by Section 3 of Chapter 529 of the Statutes of 2003, is amended to read:

48204. Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district, if he or she is:

(a) (1) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(2) An agency placing a pupil in the home or institution described in paragraph (1) shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) This section shall become operative on July 1, 2012.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid disruption of the education of each pupil who attends school in a school district in which at least one parent or the legal guardian of that pupil is physically employed, it is necessary that this act take effect immediately.

CHAPTER 34

An act to amend Section 186.22a of the Penal Code, relating to criminal street gangs.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. 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 or any district attorney or any prosecuting city attorney 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, district attorney, or city attorney 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.

CHAPTER 35

An act to amend Section 71000 of the Education Code, relating to community colleges.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of 16 voting members and one nonvoting member, as follows:

(a) Twelve members, each appointed by the Governor with the advice and consent of two-thirds of the membership of the Senate to six-year staggered terms. Two of these members shall be current or former elected members of local community college district governing boards.

(b) (1) (A) One voting student member, and one nonvoting student member, who exercise their duties in accordance with the procedure set forth in paragraph (3).

(B) A student member shall be enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester before his or her appointment, and shall meet and maintain the minimum standards of scholarship prescribed for community college students.

(C) Each student member shall be appointed by the Governor from a list of names of at least three eligible persons submitted to the Governor by the student organization recognized by the board of governors.

(2) The term of office of one student member of the board shall commence on July 1 of an even-numbered year, and expire on June 30 two years thereafter. The term of office of the other student member of the board shall commence on July 1 of an odd-numbered year, and expire on June 30 two years thereafter. Notwithstanding paragraph (1), a student member who graduates from his or her college on or after January 1 of the second year of his or her term of office may serve the remainder of the term.

(3) During the first year of a student member's term, a student member shall be a member of the board and may attend all meetings of the board and its committees. At these meetings, a student member may fully participate in discussion and debate, but shall not vote. During the second year of a student member's term, a student member may exercise the same right to attend meetings of the board, and its committees, and shall have the same right to vote as the members appointed pursuant to subdivisions (a) and (c).

(4) Notwithstanding paragraph (3), if a student member resigns from office or a vacancy is otherwise created in that office during the second year of a student member's term, the remaining student member shall immediately assume the office created by the vacancy and all of the participation privileges of the second-year student member, including the right to vote, for the remainder of that term of office.

(c) Two voting tenured faculty members from a community college, who shall be appointed by the Governor for two-year terms. The Governor shall appoint each faculty member from a list of names of at least three eligible persons furnished by the Academic Senate of the California Community Colleges. Each seat designated as a tenured faculty member seat shall be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

(d) One voting classified employee, who shall be appointed by the Governor for a two-year term. The Governor shall appoint the classified employee member from a list of at least three eligible persons furnished by the exclusive representatives of classified employees of the California Community Colleges.

CHAPTER 36

An act to amend Section 43.8 of the Civil Code, relating to immunity.

[Approved by Governor July 6, 2007. Filed with Secretary of State July 6, 2007.]

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

SECTION 1. Section 43.8 of the Civil Code is amended to read:

43.8. (a) In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of that person to any hospital, hospital medical staff, veterinary hospital staff, professional society, medical, dental, podiatric, psychology, or veterinary school, professional licensing board or division, committee or panel of a licensing board, the Senior Assistant Attorney General of the Health Quality Enforcement Section appointed under Section 12529 of the Government Code, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when the communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

(b) The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege that may be afforded by Section 47.

(c) Nothing in this section is intended in any way to affect the California Supreme Court's decision in Hassan v. Mercy American River Hospital (2003) 31 Cal.4th 709, holding that subdivision (a) provides a qualified privilege.

CHAPTER 37

An act to add Section 12012.52 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with
Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.52 is added to the Government Code, to read:

12012.52. (a) The tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Yurok Tribe of the Yurok Reservation, executed on August 29, 2006, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment of the tribal-state gaming compact ratified by this section.

(B) The execution of the tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.

(c) Revenue contributions made to the state by the tribe pursuant to the tribal-state gaming compact ratified by this section shall be deposited in the General Fund.

CHAPTER 38

An act to add Section 12012.48 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.48 is added to the Government Code, to read:

12012.48. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Morongo Band of Mission Indians, executed on August 29, 2006, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.

(B) The execution of the amended tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.

(c) Revenue contributions made to the state by tribes pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.

CHAPTER 39

An act to add Section 12012.51 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.51 is added to the Government Code, to read:

12012.51. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Sycuan Band of the Kumeyaay Nation, executed on August 30, 2006, is hereby ratified.

(b) The terms of the amended compact ratified by this section shall apply only to the State of California and the tribe that has signed it, and shall not bind any tribe that is not a signatory to the amended compact. The Legislature acknowledges the right of federally recognized tribes to exercise their sovereignty to negotiate and enter into compacts with the state that are materially different from the amended compact ratified pursuant to subdivision (a).

(c) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.

(B) The execution of the amended tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express

authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.

(d) Revenue contributions made to the state by the tribe pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund, or as otherwise provided in the amended compact.

CHAPTER 40

An act to add Section 12012.49 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.49 is added to the Government Code, to read:

12012.49. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Pechanga Band of Luiseño Mission Indians, executed on August 28, 2006, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.

(B) The execution of the amended tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.

(c) Revenue contributions made to the state by the tribe pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.

CHAPTER 41

An act to add Section 12012.46 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.46 is added to the Government Code, to read:

12012.46. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Agua Caliente Band of Cahuilla Indians, executed on August 8, 2006, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.

(B) The execution of the amended tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.

(c) Revenue contributions made to the state by tribes pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.

CHAPTER 42

An act to add Sections 12012.465, 12012.485, 12012.495, and 12012.515 to the Government Code, relating to gaming.

[Approved by Governor July 10, 2007. Filed with Secretary of State July 10, 2007.]

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

SECTION 1. Section 12012.465 is added to the Government Code, to read:

12012.465. The memorandum of agreement entered into between the State of California and the Agua Caliente Band of Cahuilla Indians, executed on June 27, 2007, is hereby approved.

SEC. 2. Section 12012.485 is added to the Government Code, to read:

12012.485. The memorandum of agreement entered into between the State of California and the Morongo Band of Mission Indians, executed on June 27, 2007, is hereby approved.

SEC. 3. Section 12012.495 is added to the Government Code, to read:

12012.495. The memorandum of agreement entered into between the State of California and the Pechanga Band of Luiseño Indians, executed on June 27, 2007, is hereby approved.

SEC. 4. Section 12012.515 is added to the Government Code, to read:

12012.515. The memorandum of agreement entered into between the State of California and the Sycuan Band of the Kumeyaay Nation, executed on June 27, 2007, is hereby approved.

CHAPTER 43

An act to amend Sections 6455, 12606, and 12606.2 of the Business and Professions Code, to amend Sections 399, 580, 586, 688.010, 688.030, 904.1, and 904.2 of, and to add Section 904.3 to, the Code of Civil Procedure, to amend Sections 25564, 29733, 43039, and 59289 of the Food and Agricultural Code, to amend Sections 12965 and 12980 of the Government Code, and to amend Sections 977 and 977.2 of the Penal Code, relating to trial court restructuring.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 6455 of the Business and Professions Code is amended to read:

6455. (a) Any consumer injured by a violation of this chapter may file a complaint and seek redress in superior court for injunctive relief, restitution, and damages. Attorney's fees shall be awarded in this action to the prevailing plaintiff.

(b) Any person who violates the provisions of Section 6451 or 6452 is guilty of an infraction for the first violation, which is punishable upon

conviction by a fine of up to two thousand five hundred dollars ($2,500) as to each consumer with respect to whom a violation occurs, and is guilty of a misdemeanor for the second and each subsequent violation, which is punishable upon conviction by a fine of two thousand five hundred dollars ($2,500) as to each consumer with respect to whom a violation occurs, or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Any person convicted of a violation of this section shall be ordered by the court to pay restitution to the victim pursuant to Section 1202.4 of the Penal Code.

SEC. 2. Section 12606 of the Business and Professions Code is amended to read:

12606. (a) No container wherein commodities are packed shall have a false bottom, false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to facilitate the perpetration of deception or fraud.

(b) No container shall be made, formed, or filled as to be misleading. A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty space in a package that is filled to less than its capacity for reasons other than the following:

(1) Protection of the contents of the package.

(2) The requirements of machines used for enclosing the contents of the package.

(3) Unavoidable product settling during shipping and handling.

(4) The need to utilize a larger than required package or container to provide adequate space for the legible presentation of mandatory and necessary labeling information, such as those based on the regulations adopted by the Food and Drug Administration or state or federal agencies under federal or state law, laws or regulations adopted by foreign governments, or under an industrywide voluntary labeling program.

(5) The fact that the product consists of a commodity that is packaged in a decorative or representational container where the container is part of the presentation of the product and has value that is both significant in proportion to the value of the product and independent of its function to hold the product, such as a gift combined with a container that is intended for further use after the product is consumed, or durable commemorative or promotional packages.

(6) An inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary to accommodate required labeling, discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

(7) The product container bears a reasonable relationship to the actual amount of product contained inside, and the dimensions of the actual product container, the product, or the amount of product therein is visible to the consumer at the point of sale, or where obvious secondary use packaging is involved.

(8) The dimensions of the product or immediate product container are visible through the exterior packaging, or where the actual size of the product or immediate product container is clearly and conspicuously depicted on the exterior packaging, accompanied by a clear and conspicuous disclosure that the representation is the "actual size" of the product or the immediate product container.

(9) The presence of any headspace within an immediate product container necessary to facilitate the mixing, adding, shaking, or dispensing of liquids or powders by consumers prior to use.

(10) The exterior packaging contains a product delivery or dosing device if the device is visible, or a clear and conspicuous depiction of the device appears on the exterior packaging, or it is readily apparent from the conspicuous exterior disclosures or the nature and name of the product that a delivery or dosing device is contained in the package.

(11) The exterior packaging or immediate product container is a kit that consists of a system, or multiple components, designed to produce a particular result that is not dependent upon the quantity of the contents, if the purpose of the kit is clearly and conspicuously disclosed on the exterior packaging.

(12) The exterior packaging of the product is routinely displayed using tester units or demonstrations to consumers in retail stores, so that customers can see the actual, immediate container of the product being sold, or a depiction of the actual size thereof prior to purchase.

(13) The exterior packaging consists of single or multiunit presentation boxes of holiday or gift packages if the purchaser can adequately determine the quantity and sizes of the immediate product container at the point of sale.

(14) The exterior packaging is for a combination of one purchased product, together with a free sample or gift, wherein the exterior packaging is necessarily larger than it would otherwise be due to the inclusion of the sample or gift, if the presence of both products and the quantity of each product are clearly and conspicuously disclosed on the exterior packaging.

(15) The exterior packaging or immediate product container encloses computer hardware or software designed to serve a particular computer function, if the particular computer function to be performed by the computer hardware or software is clearly and conspicuously disclosed on the exterior packaging.

(c) Any sealer may seize a container that facilitates the perpetration of deception or fraud and the contents of the container. By order of the superior court of the county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon conditions the court may impose to insure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if the owner furnishes proper facilities for the return. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 3. Section 12606.2 of the Business and Professions Code is amended to read:

12606.2. (a) This section applies to food containers subject to Section 403 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 (d)), and Section 100.100 of Title 21 of the Code of Federal Regulations. Section 12606 does not apply to food containers subject to this section.

(b) No food containers shall be made, formed, or filled as to be misleading.

(c) A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty space in a package that is filled to less than its capacity for reasons other than the following:

(1) Protection of the contents of the package.

(2) The requirements of the machines used for enclosing the contents in the package.

(3) Unavoidable product settling during shipping and handling.

(4) The need for the package to perform a specific function, such as where packaging plays a role in the preparation or consumption of a food, if that function is inherent to the nature of the food and is clearly communicated to consumers.

(5) The fact that the product consists of a food packaged in a reusable container where the container is part of the presentation of the food and has value that is both significant in proportion to the value of the product and independent of its function to hold the food, such as a gift product consisting of a food or foods combined with a container that is intended for further use after the food is consumed or durable commemorative or promotional packages.

(6) Inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary

to accommodate required food labeling exclusive of any vignettes or other nonmandatory designs or label information, discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

(d) This section shall be interpreted consistent with the comments by the United States Food and Drug Administration on the regulations contained in Section 100.100 of Title 21 of the Code of Federal Regulations, interpreting Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(d)), as those comments are reported on pages 64123 to 64137, inclusive, of Volume 58 of the Federal Register.

(e) If the requirements of this section do not impose the same requirements as are imposed by Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(d)), or any regulation promulgated pursuant thereto, then this section is not operative to the extent that it is not identical to the federal requirements, and for this purpose those federal requirements are incorporated into this section and shall apply as if they were set forth in this section.

(f) Any sealer may seize any container that is in violation of this section and the contents of the container. By order of the superior court of the county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon any conditions that the court may impose to ensure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if the owner furnishes proper facilities for the return. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 4. Section 399 of the Code of Civil Procedure is amended to read:

399. (a) When an order is made transferring an action or proceeding under any of the provisions of this title, the clerk shall, after expiration of the time within which a petition for writ of mandate could have been filed pursuant to Section 400, or if a writ petition is filed after judgment denying the writ becomes final, and upon payment of the costs and fees, transmit the pleadings and papers therein (or if the pleadings be oral a transcript of the same) to the clerk of the court to which the same is transferred. When the transfer is sought on any ground specified in subdivision (b), (c), (d), or (e) of Section 397, the costs and fees thereof, and of filing the papers in the court to which the transfer is ordered, shall be paid at the time the notice of motion is filed, by the party making the motion for the transfer. When the transfer is sought solely, or is ordered, because the action or proceeding was commenced in a court other than

that designated as proper by this title, those costs and fees (including any expenses and attorney's fees awarded to the defendant pursuant to Section 396b) shall be paid by the plaintiff before the transfer is made; and if the defendant has paid those costs and fees at the time of filing a notice of motion, the same shall be repaid to the defendant, upon the making of the transfer order. If those costs and fees have not been so paid by the plaintiff within five days after service of notice of the transfer order, then any other party interested therein, whether named in the complaint as a party or not, may pay those costs and fees, and the clerk shall thereupon transmit the papers and pleadings therein as if those costs and fees had been originally paid by the plaintiff, and the same shall be a proper item of costs of the party so paying the same, recoverable by that party in the event that party prevails in the action; otherwise, the same shall be offset against and deducted from the amount, if any, awarded the plaintiff in the event the plaintiff prevails against that party in the action. The cause of action shall not be further prosecuted in any court until those costs and fees are paid. If those costs and fees are not paid within 30 days after service of notice of the transfer order, or if a copy of a petition for writ of mandate pursuant to Section 400 is filed in the trial court, or if an appeal is taken pursuant to Section 904.2, then within 30 days after notice of finality of the order of transfer, the court on a duly noticed motion by any party may dismiss the action without prejudice to the cause on the condition that no other action on the cause may be commenced in another court prior to satisfaction of the court's order for costs and fees. When a petition for writ of mandate or appeal does not result in a stay of proceedings, the time for payment of those costs shall be 60 days after service of the notice of the order.

(b) At the time of transmittal of the papers and pleadings, the clerk shall mail notice to all parties who have appeared in the action or special proceeding, stating the date on which transmittal occurred. Promptly upon receipt of the papers and pleadings, the clerk of the court to which the action or proceeding is transferred shall mail notice to all parties who have appeared in the action or special proceeding, stating the date of the filing of the case and number assigned to the case in the court.

(c) The court to which an action or proceeding is transferred under this title shall have and exercise over the same the like jurisdiction as if it had been originally commenced therein, all prior proceedings being saved, and the court may require amendment of the pleadings, the filing and service of amended, additional, or supplemental pleadings, and the giving of notice, as may be necessary for the proper presentation and determination of the action or proceeding in the court.

SEC. 5. Section 580 of the Code of Civil Procedure is amended to read:

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that demanded in the complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115; but in any other case, the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue. The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney's fees, interest, and costs.

(2) A permanent injunction, except as otherwise authorized by statute.

(3) A determination of title to real property.

(4) Declaratory relief, except as authorized by Section 86.

SEC. 6. Section 586 of the Code of Civil Procedure is amended to read:

586. (a) In the following cases the same proceedings shall be had, and judgment shall be rendered in the same manner, as if the defendant had failed to answer:

(1) If the complaint has been amended, and the defendant fails to answer it, as amended, or demur thereto, or file a notice of motion to strike, of the character specified in Section 585, within 30 days after service thereof or within the time allowed by the court.

(2) If the demurrer to the complaint is overruled and a motion to strike, of the character specified in Section 585, is denied, or where only one thereof is filed, if the demurrer is overruled or the motion to strike is denied, and the defendant fails to answer the complaint within the time allowed by the court.

(3) If a motion to strike, of the character specified in Section 585, is granted in whole or in part, and the defendant fails to answer the unstricken portion of the complaint within the time allowed by the court, no demurrer having been sustained or being then pending.

(4) If a motion to quash service of summons or to stay or dismiss the action has been filed, or writ of mandate sought and notice thereof given, as provided in Section 418.10, and upon denial of the motion or writ, the defendant fails to respond to the complaint within the time provided in that section or as otherwise provided by law.

(5) If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

(6) (A) If a motion to transfer pursuant to Section 396b is denied and the defendant fails to respond to the complaint within the time allowed

by the court pursuant to subdivision (e) of Section 396b or within the time provided in subparagraph (C).

(B) If a motion to transfer pursuant to Section 396b is granted and the defendant fails to respond to the complaint within 30 days of the mailing of notice of the filing and case number by the clerk of the court to which the action or proceeding is transferred or within the time provided in subparagraph (C).

(C) If the order granting or denying a motion to transfer pursuant to Section 396a or 396b is the subject of an appeal pursuant to Section 904.2 in which a stay is granted or of a mandate proceeding pursuant to Section 400, the court having jurisdiction over the trial, upon application or on its own motion after the appeal or mandate proceeding becomes final or upon earlier termination of a stay, shall allow the defendant a reasonable time to respond to the complaint. Notice of the order allowing the defendant further time to respond to the complaint shall be promptly served by the party who obtained the order or by the clerk if the order is made on the court's own motion.

(7) If a motion to strike the answer in whole, of the character specified in Section 585, is granted without leave to amend, or if a motion to strike the answer in whole or in part, of the character specified in Section 585, is granted with leave to amend and the defendant fails to amend the answer within the time allowed by the court.

(8) If a motion to dismiss pursuant to Section 583.250 is denied and the defendant fails to respond within the time allowed by the court.

(b) For the purposes of this section, "respond" means to answer, to demur, or to move to strike.

SEC. 7. Section 688.010 of the Code of Civil Procedure is amended to read:

688.010. A proceeding for the purpose of the remedies provided under this article is a limited civil case if (a) the amount of liability sought to be collected does not exceed the maximum amount in controversy for a limited civil case provided in Section 85, and (b) the legality of the liability being enforced is not contested by the person against whom enforcement is sought.

SEC. 8. Section 688.030 of the Code of Civil Procedure is amended to read:

688.030. (a) Whenever pursuant to any provision of the Public Resources Code, Revenue and Taxation Code (excluding Sections 3201 to 3204, inclusive), or Unemployment Insurance Code, property is levied upon pursuant to a warrant or notice of levy issued by the state or by a department or agency of the state for the collection of a liability:

(1) If the debtor is a natural person, the debtor is entitled to the same exemptions to which a judgment debtor is entitled. Except as provided

in subdivisions (b) and (c), the claim of exemption shall be made, heard, and determined as provided in Chapter 4 (commencing with Section 703.010) of Division 2 in the same manner as if the property were levied upon under a writ of execution.

(2) A third person may claim ownership or the right to possession of the property or a security interest in or lien on the property. Except as provided in subdivisions (b) and (c) or as otherwise provided by statute, the third-party claim shall be made, heard, and determined as provided in Division 4 (commencing with Section 720.010) in the same manner as if the property were levied upon under a writ of execution.

(b) In the case of a levy pursuant to a notice of levy:

(1) The claim of exemption or the third-party claim shall be filed with the state department or agency that issued the notice of levy.

(2) The state department or agency that issued the notice of levy shall perform the duties of the levying officer, except that the state department or agency need not give itself the notices that the levying officer is required to serve on a judgment creditor or creditor or the notices that a judgment creditor or creditor is required to give to the levying officer. The state department or agency in performing the duties of the levying officer under this paragraph has no obligation to search public records or otherwise seek to determine whether any lien or encumbrance exists on property sold or collected.

(c) A claim of exemption or a third-party claim pursuant to this section shall be heard and determined in the superior court in the county where the property levied upon is located.

SEC. 9. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. (a) An appeal, other than in a limited civil case, is to the court of appeal. An appeal, other than in a limited civil case, may be taken from any of the following:

(1) From a judgment, except (A) an interlocutory judgment, other than as provided in paragraphs (8), (9), and (11), or (B) a judgment of contempt that is made final and conclusive by Section 1222.

(2) From an order made after a judgment made appealable by paragraph (1).

(3) From an order granting a motion to quash service of summons or granting a motion to stay the action on the ground of inconvenient forum, or from a written order of dismissal under Section 581d following an order granting a motion to dismiss the action on the ground of inconvenient forum.

(4) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(5) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(6) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(7) From an order appointing a receiver.

(8) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(9) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(10) From an order made appealable by the provisions of the Probate Code or the Family Code.

(11) From an interlocutory judgment directing payment of monetary sanctions by a party or an attorney for a party if the amount exceeds five thousand dollars ($5,000).

(12) From an order directing payment of monetary sanctions by a party or an attorney for a party if the amount exceeds five thousand dollars ($5,000).

(13) From an order granting or denying a special motion to strike under Section 425.16.

(b) Sanction orders or judgments of five thousand dollars ($5,000) or less against a party or an attorney for a party may be reviewed on an appeal by that party after entry of final judgment in the main action, or, at the discretion of the court of appeal, may be reviewed upon petition for an extraordinary writ.

SEC. 10. Section 904.2 of the Code of Civil Procedure is amended to read:

904.2. An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case is to the appellate division of the superior court. An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case may be taken from any of the following:

(a) From a judgment, except (1) an interlocutory judgment, or (2) a judgment of contempt that is made final and conclusive by Section 1222.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order changing or refusing to change the place of trial.

(d) From an order granting a motion to quash service of summons or granting a motion to stay the action on the ground of inconvenient forum, or from a written order of dismissal under Section 581d following an order granting a motion to dismiss the action on the ground of inconvenient forum.

(e) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(f) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(g) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(h) From an order appointing a receiver.

SEC. 11. Section 904.3 is added to the Code of Civil Procedure, to read:

904.3. An appeal shall not be taken from a judgment of the appellate division of a superior court granting or denying a petition for issuance of a writ of mandamus or prohibition directed to the superior court, or a judge thereof, in a limited civil case or a misdemeanor or infraction case. An appellate court may, in its discretion, upon petition for extraordinary writ, review the judgment.

SEC. 12. Section 25564 of the Food and Agricultural Code is amended to read:

25564. If the lot of poultry meat that is held is perishable or subject to rapid deterioration, the enforcing officer may file a verified petition in superior court to destroy the lot or otherwise abate the nuisance. The petition shall show the condition of the lot, that the lot is situated within the county, that the lot is held, and that notice of noncompliance has been served pursuant to this chapter. The court may thereupon order that the lot be forthwith destroyed or the nuisance otherwise abated as set forth in the order. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 13. Section 29733 of the Food and Agricultural Code is amended to read:

29733. If a packer or owner of honey, or the agent of either, after notification to the packer, owner, or agent that the honey and its containers are a public nuisance, refuses, or fails within a reasonable time, to recondition or remark the honey so as to comply with all requirements of this chapter, the honey and its containers:

(a) May be seized by the director or any enforcement officer.

(b) By order of the superior court of the county within which the honey and its containers may be located, shall be condemned and destroyed, or released upon conditions the court, in its discretion, may impose to ensure that it will not be packed, delivered for shipment, shipped, transported, or sold in violation of this chapter. A proceeding under this section is a limited civil case if the value of the property in

controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 14. Section 43039 of the Food and Agricultural Code is amended to read:

43039. If the lot which is held is perishable or subject to rapid deterioration, the enforcing officer may file a verified petition in superior court to destroy the lot or otherwise abate the nuisance. The petition shall show the condition of the lot, that the lot is situated within the county, that the lot is held, and that notice of noncompliance has been served as provided in this article. The court may thereupon order that the lot be forthwith destroyed or the nuisance otherwise abated as set forth in the order. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 15. Section 59289 of the Food and Agricultural Code is amended to read:

59289. (a) The enforcing officer may file a verified petition in superior court requesting permission to divert the lot to any other available lawful use or to destroy the lot. The verified petition shall show all of the following:

(1) The condition of the lot.

(2) That the lot is situated within the territorial jurisdiction of the court in which the petition is being filed.

(3) That the lot is held, and that the notice of noncompliance has been served as provided in Section 59285.

(4) That the lot has not been reconditioned as required.

(5) The name and address of the owner and the person in possession of the lot.

(6) That the owner has refused permission to divert or to destroy the lot.

(b) A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

SEC. 16. Section 12965 of the Government Code is amended to read:

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation, or persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization, or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges,

shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For any complaint alleging a violation of Section 51.7 of the Civil Code, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, that determination shall be made and shall be communicated in writing within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person claiming to be aggrieved that the department shall issue, on his or her request, the right-to-sue notice. This notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization, or employment agency named in the verified complaint within one year from the date of that notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting HIV/AIDS discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice. The superior courts of the State of California shall have jurisdiction of those actions, and the aggrieved person may file in these courts. An action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within

any of these counties, an action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. Those actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees and costs, including expert witness fees, except where the action is filed by a public agency or a public official, acting in an official capacity.

(c) (1) If an accusation includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, or if an accusation is amended for the purpose of adding a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or both, the respondent may within 30 days after service of the accusation or amended accusation, elect to transfer the proceedings to a court in lieu of a hearing pursuant to subdivision (a) by serving a written notice to that effect on the department, the commission, and the person claiming to be aggrieved. The commission shall prescribe the form and manner of giving written notice.

(2) No later than 30 days after the completion of service of the notice of election pursuant to paragraph (1), the department shall dismiss the accusation and shall, either itself or, at its election, through the Attorney General, file in the appropriate court an action in its own name on behalf of the person claiming to be aggrieved as the real party in interest. In this action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by his or her own counsel. Complaints filed pursuant to this section shall be filed in the superior court in any county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, or in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices. If the defendant is not found in any of these counties, the action may be brought within the county of the defendant's residence or principal office. Those actions shall be assigned to the court's delay reduction program, or otherwise given priority for disposition by the court in which the action is filed.

(3) A court may grant as relief in any action filed pursuant to this subdivision any relief a court is empowered to grant in a civil action brought pursuant to subdivision (b), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part. This relief may include a requirement that the employer conduct training for all employees, supervisors, and management on the requirements of this part, the rights and remedies of those who allege a violation of this part, and the employer's internal grievance procedures.

(4) The department may amend an accusation to pray for either damages for emotional injury or for administrative fines, or both, provided that the amendment is made within 30 days of the issuance of the original accusation.

(d) (1) Notwithstanding subdivision (b), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the Department of Fair Employment and Housing, to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing.

(B) The investigation of the charge is deferred by the Department of Fair Employment and Housing to the Equal Employment Opportunity Commission.

(C) A right-to-sue notice is issued to the person claiming to be aggrieved upon deferral of the charge by the Department of Fair Employment and Housing to the Equal Employment Opportunity Commission.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) expires when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the Department of Fair Employment and Housing, whichever is later.

(3) This subdivision is intended to codify the holding in Downs v. Department of Water and Power of City of Los Angeles (1997) 58 Cal.App.4th 1093.

(e) (1) Notwithstanding subdivision (b), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the Department of Fair Employment and Housing, to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing.

(B) The investigation of the charge is deferred by the Equal Employment Opportunity Commission to the Department of Fair Employment and Housing.

(C) After investigation and determination by the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission agrees to perform a substantial weight review of the determination of the department or conducts its own investigation of the claim filed by the aggrieved person.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) shall expire when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the Department of Fair Employment and Housing, whichever is later.

SEC. 17. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If an accusation is not issued within 100 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1. The notice shall also indicate, unless the department has determined that no accusation will be issued, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if he or she does not desire to file a civil action. The superior courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the

commission. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

SEC. 18. Section 977 of the Penal Code is amended to read:

977. (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraphs (2) and (3). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) If the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present for arraignment and sentencing, and at any time during the proceedings when ordered by the court for the purpose of being informed of the conditions of a protective order issued pursuant to Section 136.2.

(3) If the accused is charged with a misdemeanor offense involving driving under the influence, in an appropriate case, the court may order a defendant to be present for arraignment, at the time of plea, or at sentencing. For purposes of this paragraph, a misdemeanor offense involving driving under the influence shall include a misdemeanor violation of any of the following:

(A) Paragraph (3) of subdivision (c) of Section 192.

(B) Section 23103 as specified in Section 23103.5 of the Vehicle Code.

(C) Section 23152 of the Vehicle Code.

(D) Section 23153 of the Vehicle Code.

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused

agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

"Waiver of Defendant's Personal Presence"

"The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place."

(c) The court may permit the initial court appearance and arraignment of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an arraignment on an information in a felony case, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant's personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no

contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the attorney shall be present with the defendant in any county exceeding 4,000,000 persons in population.

SEC. 18.5. Section 977 of the Penal Code is amended to read:

977. (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraphs (2) and (3). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) If the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present for arraignment and sentencing, and at any time during the proceedings when ordered by the court for the purpose of being informed of the conditions of a protective order issued pursuant to Section 136.2.

(3) If the accused is charged with a misdemeanor offense involving driving under the influence, in an appropriate case, the court may order a defendant to be present for arraignment, at the time of plea, or at sentencing. For purposes of this paragraph, a misdemeanor offense involving driving under the influence shall include a misdemeanor violation of any of the following:

(A) Subdivision (b) of Section 191.5.

(B) Section 23103 as specified in Section 23103.5 of the Vehicle Code.

(C) Section 23152 of the Vehicle Code.

(D) Section 23153 of the Vehicle Code.

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct

the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

"Waiver of Defendant's Personal Presence"

"The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place."

(c) The court may permit the initial court appearance and arraignment of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an arraignment on an information in a felony case, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant's personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the attorney shall be present with the defendant in any county exceeding 4,000,000 persons in population.

SEC. 19. Section 977.2 of the Penal Code is amended to read:

977.2. (a) Notwithstanding Section 977 or any other law, in any case in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, the Department of Corrections may arrange for all court appearances in superior court, except for the preliminary hearing, trial, judgment and sentencing, and motions to suppress, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. Nothing in this section shall be interpreted to eliminate the authority of the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom. For those court appearances that the department determines to conduct by two-way electronic audiovideo communication, the department shall arrange for two-way electronic audiovideo communication between the superior court and any state prison facility located in the county. The department shall provide properly maintained equipment and adequately trained staff at the prison as well as appropriate training for court staff to ensure that consistently effective two-way communication is provided between the prison facility and the courtroom for all appearances that the department determines to conduct by two-way electronic audiovideo communication.

(b) If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an arraignment on an information or indictment in a felony case, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing.

(c) In lieu of the physical presence of the defendant's counsel at the institution with the defendant, the court and the department shall establish a confidential telephone and facsimile transmission line between the court and the institution for communication between the defendant's counsel in court and the defendant at the institution. In this case, counsel for the defendant shall not be required to be physically present at the institution during any court appearance that is conducted via electronic audiovideo communication. Nothing in this section shall be construed

to prohibit the physical presence of the defense counsel with the defendant at the state prison.

SEC. 20. Section 18.5 of this bill incorporates amendments to Section 977 of the Penal Code proposed by both this bill and AB 678. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 977 of the Penal Code, and (3) this bill is enacted after AB 678, in which case Section 18 of this bill shall not become operative.

CHAPTER 44

An act to amend Section 1936 of, and to repeal Section 1936.5 of, the Civil Code, relating to vehicle rentals.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 1936 of the Civil Code is amended to read:

1936. (a) For the purpose of this section, the following definitions shall apply:

(1) "Rental company" means any person or entity in the business of renting passenger vehicles to the public.

(2) "Renter" means any person in any manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(3) "Authorized driver" means (A) the renter, (B) the renter's spouse if that person is a licensed driver and satisfies the rental company's minimum age requirement, (C) the renter's employer or coworker if they are engaged in business activity with the renter, are licensed drivers, and satisfy the rental company's minimum age requirement, and (D) any person expressly listed by the rental company on the renter's contract as an authorized driver.

(4) (A) "Customer facility charge" means a fee required by an airport to be collected by a rental company from a renter for any of the following purposes:

(i) The fee shall be used to finance, design, and construct consolidated airport car rental facilities.

(ii) The fee shall be used to finance, design, construct, and provide common use transportation systems that move passengers between airport terminals and those consolidated car rental facilities.

(B) The aggregate amount to be collected may not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit shall also consider the reasonable costs of providing the transit system or busing network. At the Burbank Airport, and at all other airports, the fees designated as a Customer Facility Charge may not be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(C) The authorization given pursuant to this section for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(5) "Damage waiver" means a rental company's agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(6) "Electronic surveillance technology" means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. "Electronic surveillance technology" does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(A) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(B) As part of the vehicle's airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are activated to prepare the decisionmaking computer to make the determination to deploy or not to deploy the airbag.

(7) "Estimated time for replacement" means the number of hours of labor, or fraction thereof, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as "crash books."

(8) "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction thereof, needed to repair damaged vehicle parts.

(9) "Membership program" means a service offered by a rental company that permits customers to bypass the rental counter and go

directly to the car previously reserved. A membership program shall meet all of the following requirements:

(A) The renter initiates enrollment by completing an application on which the renter can specify a preference for type of vehicle and acceptance or declination of optional services.

(B) The rental company fully discloses, prior to the enrollee's first rental as a participant in the program, all terms and conditions of the rental agreement as well as all required disclosures.

(C) The renter may terminate enrollment at any time.

(D) The rental company fully explains to the renter that designated preferences, as well as acceptance or declination of optional services, may be changed by the renter at any time for the next and future rentals.

(E) An employee designated to receive the form specified in subparagraph (C) of paragraph (1) of subdivision (r) is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(10) "Passenger vehicle" means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(b) Except as limited by subdivision (c), a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(2) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle,

resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to paragraph (2).

(4) Physical damage to the rented vehicle up to a total of five hundred dollars ($500) resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Actual charges for towing, storage, and impound fees paid by the rental company if the renter is liable for damage or loss.

(6) An administrative charge, which shall include the cost of appraisal and all other costs and expenses incident to the damage, loss, repair, or replacement of the rented vehicle.

(c) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle may not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts which may not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts, which may not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) may not exceed (A) fifty dollars ($50) if the total estimated cost for parts and labor is more than one hundred dollars ($100) up to and including five hundred dollars ($500), (B) one hundred dollars ($100) if the total estimated cost for parts and labor exceeds five hundred dollars ($500) up to and including one thousand five hundred dollars ($1,500), and (C) one hundred fifty dollars ($150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars ($1,500). No administrative charge may be imposed if the total estimated cost of parts and labor is one hundred dollars ($100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle may not exceed the amount of the renter's liability under subdivision (c).

(2) A rental company may not recover from the renter or other authorized driver an amount exceeding the renter's liability under subdivision (c).

(3) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and may not assert or collect any claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim may not exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(4) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or business insurance carrier. The rental company may not make any written or oral representations that it will not present claims or negotiate with the renter's insurance carrier. For purposes of this paragraph, confirmation of coverage includes telephone confirmation from insurance company representatives during regular business hours. Upon request of the renter and after confirmation of coverage, the amount of claim shall be resolved between the insurance carrier and the rental company. The renter shall remain responsible for payment to the rental car company for any loss

sustained that the renter's applicable personal or business insurance policy does not cover.

(5) A rental company may not recover from the renter or other authorized driver for any item described in subdivision (b) to the extent the rental company obtains recovery from any other person.

(6) This section applies only to the maximum liability of a renter or other authorized driver to the rental company resulting from damage to the rented vehicle and not to the liability of any other person.

(e) (1) Except as provided in subdivision (f), every damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for any damage, loss, loss of use, or any cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to any damage waiver is void and unenforceable.

(f) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside of the United States.

(3) Any authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign which shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, e.g., liability for all collision damage regardless of cause, (B) the extent of the renter's liability, e.g., liability for damage or loss up to a specified

amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (f), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall, orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter's receipt of the oral disclosure shall be demonstrated through the renter acknowledging receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract shall also state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you

must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions).

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

"The cost of an optional damage waiver is $____ for every (day or week)."

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

"The cost of an optional damage waiver is $____ to $____ for every (day or week), depending upon the vehicle rented."

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an "economy car," "subcompact car," "compact car," or any other term having similar meaning when offered for rental, or any other vehicle having a manufacturer's suggested retail price of nineteen thousand dollars ($19,000) or less, the rate may not exceed nine dollars ($9).

(2) For rental vehicles that have a manufacturer's suggested retail price from nineteen thousand one dollars ($19,001) to thirty-four thousand nine hundred ninety-nine dollars ($34,999), inclusive, and that are also either vehicles of next year's model, or not older than the previous year's model, the rate may not exceed fifteen dollars ($15). For those rental vehicles older than the previous year's model year, the rate may not exceed nine dollars ($9).

(i) On or after January 1, 2003, the manufacturer's suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, "Consumer Price Index" means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company may not require the purchase of a damage waiver, optional insurance, or any other optional good or service.

(2) A rental company may not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or any other optional good or service, including conduct such as, but not limited to, refusing to honor the renter's

reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter's credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or any other optional good or service.

(*l*) (1) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the vehicle, a rental company may not seek to recover any portion of any claim arising out of damage to, or loss of, the rented vehicle by processing a credit card charge or causing any debit or block to be placed on the renter's credit card account.

(2) A rental company may not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

(m) (1) A customer facility charge may be collected by a rental company under the following circumstances:

(A) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, or a special district.

(B) The fee is calculated on a per-contract basis.

(C) The fee is a user fee, not a tax imposed upon real property or an incidence of property ownership under Article XIII D of the California Constitution.

(D) Except as otherwise provided in subparagraph (E), the fee shall be ten dollars ($10) per contract.

(E) If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars ($10), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided the airport requires off-airport customers to use the common-use transportation system.

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, constructing, or operating the facility or services and may not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to airports whose fees are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(2) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or any

other law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(n) (1) A rental company shall only advertise, quote, and charge a rental rate that includes the entire amount except taxes, a customer facility charge, if any, and a mileage charge, if any, which 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, and a mileage charge, if any, any fee which 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, nor any fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(2) In addition to the rental rate, taxes, customer facility charges, 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.

(3) A rental company may not charge any fee for authorized drivers in addition to the rental charge for an individual renter.

(4) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quotation, the rental company shall clearly disclose in that advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rental rate, 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.

(5) (A) When a rental rate is stated in an advertisement, quotation, or reservation 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. For purposes of this subparagraph, quotations and reservations include those that are telephonic, in-person, and computer-transmitted. If the rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of fees may be stated in the advertisement. However, all 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 or quotes a 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 fee, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car. If a rental car company provides the person or entity with 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 when quoting or confirming a rate to a third person or entity.

(6) 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.

(o) A rental company may not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle has been stolen, abandoned, or missing.

(ii) The rental vehicle has not been returned following one week after the contracted return date, or by one week following the end of an extension of that return date.

(iii) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, it shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle has been stolen, abandoned, or is missing.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A) of paragraph (1), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of any written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be made available upon the renter's request. The rental company shall maintain and furnish any explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(3) Nothing in this subdivision prohibits a rental company from equipping rental vehicles with GPS based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(4) Nothing in this subdivision prohibits a rental company from equipping rental vehicles with electronic surveillance technology that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(5) Nothing in this subdivision prohibits a rental company from equipping rental vehicles with electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire or fuel services, at the request of the renter, if the rental company does not use, access or obtain any information relating to the renter's

use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(6) Nothing in this subdivision prohibits a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. This paragraph, however, shall apply only after the renter has returned the vehicle to the rental company, and the information shall only be used for the purpose described in this paragraph.

(p) A rental company may not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

(q) 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.

(r) A rental company that brings an action against a renter for loss due to theft of the vehicle shall bring the action in the county in which the renter resides or, if the renter is not a resident of this state, in the jurisdiction in which the renter resides.

(s) Any waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(t) (1) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(A) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(i) All of the disclosures required by paragraph (1) of subdivision (g) including the terms and conditions of the rental agreement then in effect.

(ii) A Web site address, as well as a contact number or address, where the enrollee can learn of any changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(B) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(C) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter

that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

The hanger shall provide the renter a box to initial if he or she (not his or her employer) has previously accepted or declined the collision damage waiver and that he or she now wishes to change his or her decision to accept or decline the collision damage waiver, as follows:

"□ If I previously accepted the collision damage waiver, I now decline it.

□ If I previously declined the collision damage waiver, I now accept it."

The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form who is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(2) (A) This subdivision is not effective unless the employee designated pursuant to subparagraph (E) of paragraph (8) of subdivision (a) is actually present at the required location.

(B) This subdivision does not relieve the rental company from those disclosures that are required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.

(u) The amendments made to this section during the 2001–02 Regular Session of the Legislature do not affect litigation pending on or before January 1, 2003, alleging a violation of Section 22325 of the Business and Professions Code as it read at the time the action was commenced.

SEC. 2. Section 1936.5 of the Civil Code is repealed.

CHAPTER 45

An act to add Section 15657.01 to the Welfare and Institutions Code, relating to elder and dependent adult financial abuse.

[Approved by Governor July 12, 2007. Filed with
Secretary of State July 12, 2007.]

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

SECTION 1. Section 15657.01 is added to the Welfare and Institutions Code, to read:

15657.01. Notwithstanding Section 483.010 of the Code of Civil Procedure, an attachment may be issued in any action for damages pursuant to Section 15657.5 for financial abuse of an elder or dependent adult, as defined in Section 15610.30. The other provisions of the Code of Civil Procedure not inconsistent with this article shall govern the issuance of an attachment pursuant to this section. In an application for a writ of attachment, the claimant shall refer to this section. An attachment may be issued pursuant to this section whether or not other forms of relief are demanded.

CHAPTER 46

An act to amend Sections 12085, 12085.5, 12087, 12727, 12730, 12735, 12736, 12738, 12740, 12741, 12742, 12745, 12747, 12750, 12750.1, 12750.2, 12751, 12752.1, 12753, 12754, 12756, 12759, 12760, 12761, 12763, 12768, 12772, 12773, 12776, 12780, 12781, 12785, and 12787 of, and to add Section 12758 to, the Government Code, and to repeal Section 25200 of the Welfare and Institutions Code, relating to community services.

[Approved by Governor July 12, 2007. Filed with
Secretary of State July 12, 2007.]

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

SECTION 1. Section 12085 of the Government Code is amended to read:

12085. (a) (1) Although the economic well-being of the state has progressed to a level surpassing that of any other achieved in world history, and although these benefits are widely shared throughout the state, poverty continues to be the lot of a substantial number of citizens of the state. California can achieve its full economic and social potential as a state only if every individual has the opportunity to contribute the full extent of his or her capabilities and to participate in the workings of society. The Legislature hereby declares that it is the policy of the state

to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in our communities, particularly those areas of communities where poverty is an acute problem. Specifically, it is the policy of the state to assist low-income participants, including homeless individuals and families, migrants, and the elderly poor, to do all of the following:

(A) Secure and retain meaningful employment.

(B) Attain an adequate education.

(C) Make better use of available income.

(D) Obtain and maintain adequate housing and a suitable living environment.

(2) It is further the policy of the state to do all of the following in assisting participants:

(A) Provide emergency assistance to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance.

(B) Coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of those services to low-income individuals.

(C) Encourage the use of entities in the private sector of the community in efforts to ameliorate poverty.

(3) The Legislature finds that it is the purpose of this article to strengthen, supplement, and coordinate efforts to further these policies.

(b) In order to employ the resources of both the public and private sectors of the state, and to effectuate the purposes of this article, there is within the California Health and Human Services Agency, a Department of Community Services and Development.

SEC. 2. Section 12085.5 of the Government Code is amended to read:

12085.5. Any reference in any provision of law or regulation to the State Office of Economic Opportunity or the Department of Economic Opportunity shall be deemed to refer to the Department of Community Services and Development.

SEC. 3. Section 12087 of the Government Code is amended to read:

12087. The department shall have the responsibility, and is hereby vested with all necessary powers and authority to do the following:

(a) Recognize existing community action agencies, as originally defined by Section 2790 of Title 42 of the United States Code in the federal Economic Opportunity Act of 1964, and as superseded by Section 9902 of that title in the federal Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), and as further defined in Article 6 (commencing with Section 12750) of Chapter 9 of Division 3 of Title 2, and Indian tribes or tribal organizations, as the operators of programs to serve the poor in

local communities, and, where the programs are of a statewide or multicounty nature, other limited purpose agencies may be considered as program operators.

(b) Apply for, administer, and oversee federal block grant funds, including, but not limited to, the Community Services Block Grant and the Low-Income Home Energy Assistance Program, and other public and private funds designed to support antipoverty programs in the state that are not currently administered by other departments, and define and enforce programmatic performance and fiscal accountability standards for those funds.

(c) Provide funding and technical assistance, directly or through grants or contracts, to community action agencies, Indian tribes, and other agencies that operate programs of an antipoverty nature.

(d) Coordinate antipoverty efforts throughout the state, to the extent permissible under federal law, to avoid duplication, improve delivery of services, and relate programs to one another.

(e) Maintain liaison with the Office of Community Services in the federal Department of Health and Human Services, county and city commissions on economic opportunity, citizens' groups, and all other governmental agencies engaged in economic opportunity or community service programs, or both.

(f) Collect and assemble pertinent information and data available from other agencies of the state and federal governments and disseminate information in the interests of community services programs in the state by publication, advertisement, conference, workshops, programs, lectures, and other means.

(g) Plan and evaluate long-range and short-range strategies for overcoming poverty in the state.

(h) Mobilize public and private resources in support of antipoverty and community services programs.

(i) Encourage participation by residents of poor communities in the development and operation of community action programs for their betterment.

(j) Advise the Governor of his or her responsibilities under the Economic Opportunity Program (Chapter 34 (commencing with Section 2701) of Title 42 of the United States Code) and the Community Services Block Grant Program (Chapter 106 (commencing with Section 9901) of Title 42 of the United States Code), as well as any other federal law enacted with respect to meeting the needs of the poor.

(k) Measure and evaluate, directly or through grants or contracts, the impact of this article and other poverty-related programs authorized by law, in order to determine the effectiveness of the programs in achieving stated goals, impact on related programs, and the structure and

mechanisms for the delivery of services. All the offices under the executive branch shall cooperate and provide the necessary information to the director, upon his or her request, to achieve the purposes of this subdivision.

(*l*) Promulgate regulations and negotiate and execute contracts necessary or convenient for the exercise of its responsibilities, powers and functions, and to ensure that federal and state standards of programmatic performance and fiscal accountability are met.

SEC. 4. Section 12727 of the Government Code is amended to read:

12727. All activities of the California Community Services Block Grant Program eligible entities shall have the following basic and specific purposes:

(a) The basic purpose of this chapter is to stimulate an effective concentration of all available local, state, private, and federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas to attain the skills, knowledge, and motivations and to secure the opportunities needed for them to become fully self-sufficient.

(b) The specific purposes of this chapter are to promote, as methods of achieving an effective concentration of resources on the goal of individual and family self-sufficiency, the following:

(1) The strengthening of community capabilities for planning and coordinating federal, state, private, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions.

(2) The coherent organization of a range of services related to the needs of the poor, so that these services may be made more effective and efficient in helping families and individuals to overcome poverty-related problems in a way that takes into account, and supports, their progress in overcoming identified causes of poverty.

(3) The implementation, subject to adequate evaluation, of new types of services and innovative approaches toward eliminating causes of poverty, so as to develop increasingly effective methods of employing available resources.

(4) Maximum feasible participation of members of the groups and residents of the low-income areas to be served by programs and projects in the development and implementation of those programs and projects, in order to assure that all programs and projects are meaningful to, and widely utilized by, their intended beneficiaries.

(5) The broadening of the resource base directed towards the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable, and

neighborhood organizations, and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(c) It is the finding of the Legislature that these state purposes and the intent of the federal Community Services Block Grant will best be served by enacting the program policies and requirements contained in this chapter.

SEC. 5. Section 12730 of the Government Code is amended to read:

12730. For the purposes of this chapter, the following definitions apply:

(a) "Community Services Block Grant" refers to the federal funds and program established by the federal Community Services Block Grant Program in the Omnibus Budget Reconciliation Act of 1981, as contained in Public Law 97-35, as that law has been amended from time to time and as currently codified as Section 9901 et seq. of Title 42 of the United States Code.

(b) "Contract" means the written document incorporating the terms and conditions under which the department agrees to provide financial assistance to an eligible entity. Upon its cosigning by authorized agents of the department and the eligible entity, and subsequent approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code, a contract shall be deemed to be valid and enforceable.

(c) "Director" means the Director of Community Services and Development.

(d) "Delegate agency" or "subcontractor" means a private nonprofit organization or public agency that operates one or more projects funded under this chapter pursuant to a contractual agreement with an eligible entity.

(e) "Department" means the Department of Community Services and Development established pursuant to Article 8 (commencing with Section 12085) of Chapter 1.

(f) "Designation" means the formal selection of a proposed community action agency by the director, as provided in Section 12750.1.

(g) "Eligible entity" means an agency or organization, as defined in Section 9902 of Title 42 of the United States Code, as amended, and may include a private nonprofit organization or public agency that operates one or more projects funded under this chapter pursuant to a contract with the department.

(h) "Eligible beneficiaries" means all of the following:

(1) All individuals living in households with incomes not to exceed the official poverty line according to the poverty guidelines updated

periodically in the Federal Register by the United States Department of Health and Human Services, as defined in Section 9902 of Title 42 of the United States Code, as amended.

(2) All individuals eligible to receive Temporary Assistance for Needy Families under the state's plan approved under Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or assistance under Part A of Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.).

(3) Residents of a target area or members of a target group having a measurably high incidence of poverty and that is the specific focus of a project financed under this chapter.

(i) "Financial assistance" means money provided by the department to an eligible entity, pursuant to an approved contract, in order to enable the eligible entity to accomplish its planned and approved work program.

(j) "Political subdivision" shall generally be deemed to mean county government, with the following exceptions:

(1) In any county that, prior to October 1, 1981, had more than one designated community action agency, each unit of local government that contained a designated community action agency shall continue to operate as a "political subdivision" under this chapter.

(2) Any county having fewer than 50,000 population according to the most recent census available may be deemed by the department to be part of a larger "political subdivision" comprising two or more counties if the department determines that to do so would best serve the purposes of this chapter, and may participate in the designation process for a multicounty community action agency.

(k) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(*l*) "Standards of effectiveness" are the general standards, derived from the purposes of this chapter and the assurances and certifications made by the state to the secretary in the state plan, as further stated in subdivision (g) of Section 12745, and as they may be more specifically defined in regulation, toward which all programs and projects funded under this chapter shall be directed and against which they will be assessed.

(m) "State plan" means the plan required to be submitted to the secretary to secure California's allotment of Community Services Block Grant funds, which shall be prepared and reviewed pursuant to the requirements of this chapter.

(n) "Uncapped area" means any county or portion of a county for which no community action agency has been designated and recognized.

SEC. 6. Section 12735 of the Government Code is amended to read:

12735. (a) The Governor shall submit an application containing the assurances and certification required under Section 12736 to the secretary in any form the secretary may require pursuant to Section 9908 of Title 42 of the United States Code, as amended.

(b) Since under the terms of Section 9901 et seq. of Title 42 of the United States Code, as amended, the secretary may not prescribe the manner in which states shall comply with the provisions set forth in subdivision (a), it is the intent of the Legislature that California's manner of compliance shall be controlled in the first instance by this chapter, and further by the state plan and any regulations that may be promulgated by the department, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Division 2 of Title 3.

(c) The state administering agency for the California Community Services Block Grant Program shall be the Department of Community Services and Development.

SEC. 7. Section 12736 of the Government Code is amended to read:

12736. For the purposes of Section 12735, the application shall contain assurance and certification that the state shall comply with all of the items listed below. The application shall include information as to how each assurance will be carried out.

(a) Conduct legislative hearings on the proposed use and distribution of Community Services Block Grant funds prior to the submission of each application.

(b) Use Community Services Block Grant funds as provided in Section 12745.

(c) Use not less than 90 percent of the Community Services Block Grant funds allotted to the state to make grants to eligible entities that meet the provisions of Section 9901 et seq. of Title 42 of the United States Code, as amended.

(d) Expend not more than 5 percent of the state's allotment for administrative costs at the state level.

(e) Assure that any community action agency or migrant and seasonal farmworker organization that received financial assistance in the previous fiscal year under this chapter shall not have its present or future financial assistance terminated pursuant to this chapter unless, after notice and opportunity for hearing on the record, the department determines that cause existed for the termination, subject to review by the secretary, as provided in Sections 9908 and 9915 of Title 42 of the United States Code, as amended.

(f) Give special consideration, as defined in Section 9909(b) of Title 42 of the United States Code, in the designation of local community

action agencies to any community action agency that was receiving funds under any federal antipoverty program on the date of the enactment of federal Public Law 97-35, except that the state shall, before giving special consideration, determine that the agency involved meets program and fiscal requirements established by the state. If there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, the state shall give special consideration in the designation of community action agencies to any successor agency that is operated in substantially the same manner as the predecessor agency that did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

(g) Decline to avail itself of permission to transfer Community Services Block Grant funds, not to exceed 5 percent of the state's allotment, to other specified programs.

(h) Prohibit any political activities in accordance with Section 9918 of Title 42 of the United States Code, as amended.

(i) Prohibit any activities to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity.

(j) Prohibit the use of funds in accordance with Section 9920(c) of Title 42 of the United States Code, as amended, and as further defined in Part 87 of Title 45 of the Code of Federal Regulations, as amended.

(k) Provide for coordination between antipoverty programs in each community, where appropriate, with emergency energy crisis intervention programs under Title XXVI of federal Public Law 97-35, as amended, (relating to low-income home energy assistance) conducted in that community.

(*l*) Provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for federal funds paid to the state under this chapter, including procedures for monitoring the assistance provided under this chapter, and provide that at least every year the state shall prepare, in accordance with Public Law 98-502 (Single Audit Act of 1984), as amended, an audit of expenditures under this chapter of amounts received under the Community Services Block Grant and amounts transferred to carry out the purposes of the Community Services Block Grant.

(m) Permit and cooperate with federal investigations undertaken in accordance with Public Law 97-35, as amended.

SEC. 8. Section 12738 of the Government Code is amended to read:

12738. In addition to the general powers vested in the Department of Community Services and Development by Section 12087, the department may promulgate regulations, make grants, and enter into

contracts as necessary and appropriate to carry out its responsibilities under this chapter.

SEC. 9. Section 12740 of the Government Code is amended to read:

12740. The department shall prepare a state plan for the California Community Services Block Grant Program, as required by the secretary, which shall include all of the following:

(a) A statement of goals and objectives.

(b) Information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served.

(c) The criteria and method established for the distribution of funds, including details on how the distribution of funds will be targeted on the basis of need.

(d) A description of how the state plan for the previous program period has met the goals, objectives and needs identified in the prior state plan through the use of funds in that program period.

(e) A description of the process by which the state plan has been developed, distributed and reviewed by both the general public, groups and individuals with an interest in the state's Community Services Block Grant Program, and the Legislature.

(f) An explanation of how critical comment was received, reviewed, and either incorporated or rejected by the department prior to final submission of the state plan.

(g) The department's most current information regarding the projected federal Community Services Block Grant allocation to the state.

(h) A report of current and planned expenditures of discretionary funds.

SEC. 10. Section 12741 of the Government Code is amended to read:

12741. The state's planning process shall include the following:

(a) The state plan shall identify eligible activities and the eligible entities that will conduct those activities in order to meet the general goals of the California Community Services Block Grant Program and the specific goals of the program. The plan shall, particularly with respect to subdivision (d) of Section 12740, reflect the aggregate of community action plans in order to fairly represent the most essential characteristic of the California Community Services Block Grant Program, which is its adherence to the principle of community self-help.

(b) The appropriate policy committee of the Assembly or the Senate, or both, shall conduct one or more public hearings on the proposed use and distribution of funds provided under the California Community Services Block Grant Program. Prior to the hearing, the department shall forward to the policy committees a list of the activities it has identified as statewide priorities pursuant to subdivision (e) of Section 12745, in

order to notify the Legislature and the public of the issues to be addressed by the department at each hearing. The chairs of the policy committees may request additional issues to be reported on by the department. The hearings shall be conducted in such a manner as to satisfy the legislative hearing requirement of federal Public Law 97-35, as amended, and to give the Legislature an opportunity to certify that the state plan conforms to the requirements of this chapter. At the discretion of the respective chairs, the policy committees may hold a single or joint hearing, or both, to satisfy the requirements of this section.

(c) The department shall make adjustments to the state plan as a result of public comments presented at the legislative hearing as well as written comments that are submitted to the department. The department shall identify all testimony presented by the poor, and shall state whether the concerns expressed by the testimony have been included in the plan. If any of those concerns have not been included in the plan, the department shall specify in the plan the reasons for the rejection of those concerns. Concerns shall only be rejected if there is good cause for the rejection.

(d) The committees conducting the hearings pursuant to subdivision (b) shall determine whether the concerns of the poor have been included in the state plan, as adjusted, or rejected for good cause. Before the final state plan is submitted to the secretary, the chairs of the committees conducting hearings shall certify that the state plan conforms with the requirements of this chapter.

(e) Upon receiving the certification required in subdivision (d), the department shall submit the final state plan, as required by Section 9908 of Title 42 of the United States Code, as amended, to the secretary, and shall provide a copy to all eligible entities and state legislators no more than one week thereafter.

SEC. 11. Section 12742 of the Government Code is amended to read:

12742. The current state plan may be amended by the department at any time during the program year, provided that any proposed amendments, together with the reasons therefor, are distributed to all eligible entities and state legislators for a 30-day comment period commencing at least 45 days prior to their planned date of submission to the secretary.

SEC. 12. Section 12745 of the Government Code is amended to read:

12745. (a) Eligible activities for which financial assistance may be obtained pursuant to this chapter shall be designed to have a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem. These activities shall be designed to assist low-income participants to do all the following:

(1) Secure and retain meaningful employment.

(2) Attain an adequate education.

(3) Make better use of available income.

(4) Obtain and maintain adequate housing and suitable living environment.

(5) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance.

(6) Remove obstacles and solve problems that block the achievement of self-sufficiency.

(7) Achieve greater participation in the affairs of the community.

(8) Address the needs of youth in low-income communities.

(9) Make more effective use of other programs related to the purposes of this chapter.

(b) Additionally, activities shall be designed to do all of the following:

(1) Provide on an emergency basis for the provision of the supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor.

(2) Coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of those services to low-income individuals.

(3) Encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

(c) Each eligible entity shall, through the local planning process, select and propose for funding the programs or projects that, in its judgment, will produce the maximum impact on its community.

(d) Entities eligible for funding under Article 9 (commencing with Section 12775) are limited purpose agencies that need not respond to the broad range of eligible activities but may provide specialized training, technical assistance and support services to enhance the effectiveness of community action programs, migrant and seasonal farmworker programs, and American Indian programs.

(e) The department may prescribe statewide priorities among eligible activities or strategies that shall be considered and addressed in the local planning process and described in the community action plan submitted to the state. Each eligible entity shall be authorized to set its own program priorities in conformance to its own determination of local needs.

(f) If no other entity in the community provides those services, eligible entities under Article 6 (commencing with Section 12750), Article 7 (commencing with Section 12765), or Article 8 (commencing with Section 12770) shall provide a minimum level of services to help the poor receive the benefits for which they are eligible under health, food,

income, and housing assistance programs designed to meet the basic survival needs of the poor. These services shall include, but shall not be limited to, all of the following:

(1) A service to help the poor complete the various required application forms, and, when necessary and possible, to help them gather verification of the contents of completed applications.

(2) A service to explain program requirements and client responsibilities in programs serving the poor.

(3) A service to provide transportation, when necessary and possible.

(4) A service that does all things necessary to make the programs accessible to the poor, so that they may become self-sufficient.

(g) Standards of effectiveness to be addressed and attained in setting goals and assessing accomplishments are:

(1) Strengthened community capabilities for planning and coordinating so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions.

(2) Better organization of services related to the needs of the poor.

(3) Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve the poor.

(4) Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor.

(5) Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources.

(6) Maximum employment opportunity, including opportunity for further occupational training and career development for residents of the area and members of the groups served.

(7) Those programmatic and fiscal standards set by the department through regulation that are necessary to enable the department to demonstrate the assurances and certifications it makes to the secretary in the state plan.

(h) In administering the California Community Services Block Grant Program, the department shall enforce all the programmatic and fiscal requirements and standards of effectiveness provided by this chapter, except that no eligible entity shall be determined to be out of compliance with programmatic or fiscal requirements established by the department until those requirements and standards are published for review and comment by the eligible entities and until eligible entities are afforded a reasonable opportunity to comply therewith.

SEC. 13. Section 12747 of the Government Code is amended to read:

12747. (a) Community action plans shall be developed by eligible entities as required by the secretary and the director using processes that assess poverty-related needs, available resources, and feasible goals and strategies, and that yield program priorities consistent with standards of effectiveness established for this program. Community action plans shall identify eligible activities to be funded in the program service areas and the needs that each activity is designed to meet. Community action plans shall provide for the contingency of reduced federal funding.

(b) All eligible entities shall submit their grant applications, including local plan and report of the public hearing, if required, to the department no later than June 30 of each year.

(c) Each eligible entity not serving a statewide area shall conduct a local public hearing for the purpose of reviewing the local plans of all eligible entities located or operating within a political subdivision served or proposed to be served pursuant to this chapter.

(d) Eligible entities holding hearings pursuant to this article shall identify all testimony presented by the poor, and shall determine whether the concerns expressed by that testimony have been addressed in the plan. If the agency determines that any of these concerns have not been included in the plan, it shall specify in its response to the plan information about those concerns and comment as to their validity.

SEC. 14. Section 12750 of the Government Code is amended to read:

12750. (a) A community action agency shall be a public or private nonprofit agency that fulfills all of the following requirements:

(1) Has been designated by the director to operate a community action program.

(2) Has a tripartite board structure meeting the requirements of Section 12751.

(3) Has the power, authority, and capability to plan, conduct, administer, and evaluate a community action program, including the power to enter into contracts with other public and private nonprofit agencies and organizations to assist in fulfilling the purposes of this chapter.

(b) A community action program is a locally planned and operated program comprising a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem.

(c) Component services and activities of a community action program may be administered directly by the community action agency, or by other agencies pursuant to delegation or subcontractual agreements with the eligible entity. They may be projects eligible for assistance under this chapter, or projects assisted from other public or private sources,

and they may be either specially designed to meet local needs, or designed pursuant to the eligibility standards of the state or federal program providing assistance to a particular kind of activity that will help in meeting those needs.

(d) For the purpose of this chapter, a community may be a city, county, multicity or multicounty unit, that provides a suitable organizational base and possesses the commonality of interest needed for a community action program.

SEC. 15. Section 12750.1 of the Government Code is amended to read:

12750.1. (a) No new community action agency may be designated by the director for a political subdivision that is served by an existing community action agency unless any of the following exist:

(1) The political subdivision is informed in writing by the director that the existing community action agency has failed to comply, after having a reasonable opportunity to do so, with the requirements of this chapter, subject to paragraph (5) of subdivision (c) of Section 12781.

(2) The political subdivision is informed by its existing community action agency that because of changes in assistance furnished to programs to economically disadvantaged persons it can no longer operate a satisfactory community action program.

(3) The director is petitioned by significant numbers of eligible beneficiaries to reconsider its existing designation and, based on that reconsideration, determines to designate an alternate community action agency.

(b) In the event that the designation of an existing community action agency is revoked, the director shall designate a new community action agency within a period of 90 days after the effective date of the revocation, subject to Section 12750.2.

(c) New community action agency designations may be made in political subdivisions or combinations of political subdivisions in a county or portion thereof for which no community action agency has been designated provided that the community to be served has a population of at least 50,000, as determined by the Bureau of Census from the most recent available census or survey. The director may waive the general requirement that the community to be served have a population of at least 50,000 in those instances where no practical grouping of contiguous political subdivisions can be made in order to meet that requirement.

(d) A private nonprofit agency that serves a political subdivision or combination of political subdivisions having more than 50,000 population shall be entitled to petition the department for state designation as a community action agency, provided it has a governing board meeting

community action agency requirements and has the capability to plan, conduct, administer, and evaluate a community action program.

SEC. 16. Section 12750.2 of the Government Code is amended to read:

12750.2. For purposes of serving any area of the state in which community action programs cease to be provided, the director shall designate an organization in accordance with Section 9909 of Title 42 of the United States Code, as amended, and through a process that shall include all of the following:

(a) Notice of intent to designate.

(b) Request for proposals by any political subdivision or by any other qualified organization that can demonstrate adequate representation of low-income individuals in the development, planning, implementation, and evaluation of the community action program.

(c) Invitation to the political subdivision to participate in the review of the proposals.

SEC. 17. Section 12751 of the Government Code is amended to read:

12751. Each community action agency shall have a board of directors conforming to the following requirements:

(a) One-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting this requirement.

(b) At least one-third of the members are persons chosen in accordance with democratic selection procedures outlined in regulations promulgated by the department to assure that the members represent the poor and reside in the area served.

(c) The remainder of the members are officials or members of business, industry, labor, religious, human services, education, or other major groups and interests in the community.

SEC. 18. Section 12752.1 of the Government Code is amended to read:

12752.1. (a) If a political subdivision or local government is designated as a community action agency, it shall do all of the following:

(1) Establish a tripartite advisory or administering board to provide input to the political subdivision or local government regarding the activities of the community action agency.

(2) Share with its tripartite board the determination of the community action agency's program plans and priorities.

(3) Provide for the participation of the tripartite board in the selection of the executive director of the community action agency, unless prohibited by local law, city charter, or civil service procedure.

(b) The political subdivision or local government may, consistent with general and local law, delegate any or all of the following powers to the tripartite board:

(1) To determine its own rules and procedures and to select its own officers and executive committee.

(2) To determine, subject to the ratification of designating officials, the community action agency's major personnel, organizational, fiscal, and program policies.

(3) To approve, subject to the ratification of designating officials, all program proposals, budgets and subcontractor agreements.

(4) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency.

SEC. 19. Section 12753 of the Government Code is amended to read:

12753. (a) Each community action agency shall adopt procedures to provide a continuing and effective mechanism for securing broad community involvement in programs assisted under this act and for ensuring that all groups or elements represented on the tripartite board have a full and fair opportunity to participate in decisions affecting those programs.

(b) Community action agencies shall establish procedures under which community agencies and representative groups of the poor that feel themselves inadequately represented on the tripartite board may petition for adequate representation.

SEC. 20. Section 12754 of the Government Code is amended to read:

12754. In exercising its powers and carrying out its overall responsibility for a community action program, a community action agency shall have, subject to the purposes of this chapter, at least the following functions:

(a) Planning systematically for and evaluating the program, including actions to develop information as to the problems and causes of poverty in the community, determine how much and how effectively assistance is being provided to deal with those problems and causes, and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources.

(b) Encouraging agencies engaged in activities related to the community action program to plan for, secure, and administer assistance available under this chapter or from other sources on a common or cooperative basis; providing planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertaking actions to improve existing efforts to overcome poverty.

(c) Initiating and sponsoring projects responsive to needs of the poor that are not otherwise being met.

(d) Establishing effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, providing for their regular participation in the implementation of those programs, and providing technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources.

(e) Joining with and encouraging business, labor, and other private groups and organizations to undertake, together with public officials and agencies, activities, in support of the community action program that will result in the additional use of private resources and capabilities, with a view to things such as developing new employment opportunities, stimulating investment that will have a measurable impact in reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

SEC. 21. Section 12756 of the Government Code is amended to read:

12756. Every community action agency has a fundamental responsibility to encourage, assist, and strengthen the ability of the poor in the areas served by the community action agency to play major roles in the organization; program planning; goal setting; determination of priorities; decisions concerning budgeting and financial management; key decisions concerning hiring of personnel, selection criteria, personnel policies, and career development programs; and evaluation of programs affecting their lives. The fundamental responsibility of the community action agency includes all of the following:

(a) Seeking and bringing about ways to improve its own effectiveness as a channel through which the poor, local government, and private groups can communicate, plan, and act together in partnership. In that partnership, the poor shall have a strong voice or role, both directly and through representatives whom they have chosen.

(b) Providing the representatives of the poor serving on the tripartite board of the community action agency with the tools and the support, including guidance, training, and staff assistance, that will permit them to participate meaningfully in the affairs of the community action agency, and in all of its programs and subcontractor agencies.

(c) Encouraging the development of effective local organizations established and controlled by residents of poor neighborhoods and areas. Community action agencies are expected to provide training, technical assistance, and staff resources to enable the poor to develop, administer, and participate effectively in local area programs and to enter into the broader community discussion of problems and solutions relating to poverty.

(d) Providing employment for poor persons in all phases of the community action program.

(e) Continually ensuring that subcontractor agencies involve poor persons in the planning, conduct, and evaluation of subcontracted programs.

(f) Working for the acceptance by other public and private agencies and organizations serving the community of effective and growing involvement of the poor in the planning, conduct, and evaluation of all activities that affect them and their inclusion in career jobs in the agencies.

SEC. 22. Section 12758 is added to the Government Code, to read:

12758. (a) All Community Services Block Grant funds made available by 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.

(b) 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.

SEC. 23. Section 12759 of the Government Code is amended 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 (c) is set aside.

(3) "Uncapped program" means a program that serves an uncapped area, as defined in Section 12730.

(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 an initial base allocation that shall be equal to the amount the program 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 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 when 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 program 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. 24. Section 12760 of the Government Code is amended to read:

12760. Community action agencies funded under this article shall coordinate their plans and activities with other eligible entities funded under Articles 7 (commencing with Section 12765) and 8 (commencing with Section 12770) that serve any part of their communities, so that funds are not used to duplicate particular services to the same beneficiaries and plans and policies affecting all grantees under this chapter are shaped, to the extent possible, so as to be equitable and beneficial to all community agencies and the populations they serve.

SEC. 25. Section 12761 of the Government Code is amended to read:

12761. A community action agency or eligible entity shall not use any funds received under this article to replace discontinued state or local funding.

SEC. 26. Section 12763 of the Government Code is amended to read:

12763. Consistent with Section 1090, no Member of the Legislature, or any state, county, district, judicial district, or city officer or employee who also serves on a tripartite board shall vote on a contract or other matter before a tripartite board, that would have a direct bearing on services to be provided by that member, officer, or employee, or any business or organization which that member, officer, or employee directly represents or that would financially benefit that member, officer, or employee, or the business or organization that the member, officer, or employee directly represents.

SEC. 27. Section 12768 of the Government Code is amended to read:

12768. Migrant and seasonal farmworker entities funded by the department shall coordinate their plans and activities with other eligible entities funded by the department to avoid duplication of services and to maximize services for all eligible beneficiaries.

SEC. 28. Section 12772 of the Government Code is amended to read:

12772. American Indian entities funded by the department shall be limited to tribes and other Indian organizations in urban or rural off-reservation areas who demonstrate community governance, such as Indian nonprofit organizations, who meet the criteria of eligible entity, as defined in subdivision (g) of Section 12730. In a county having a population of over 7,000,000 persons, the County Community Action Agency may serve as the eligible entity if (a) requested to serve in this capacity by a commission composed of representatives of American Indian beneficiaries in that county, and (b) the board of supervisors of the county shares grant allocation authority with an appropriate American Indian entity. American Indian programs funded under this article shall coordinate their plans and activities with other eligible entities funded by the department to avoid duplication of services and to maximize services for eligible beneficiaries.

SEC. 29. Section 12773 of the Government Code is amended to read:

12773. American Indian entities funded by the department and operating under authority of this chapter in the prior program year shall have the same protections against defunding, as defined in subdivision (e) of Section 12736.

SEC. 30. Section 12776 of the Government Code is amended to read:

12776. Limited purpose agencies funded under this article shall coordinate their plans and activities with other eligible entities funded by the department to avoid duplication of services and to maximize services for all eligible beneficiaries.

SEC. 31. Section 12780 of the Government Code is amended to read:

12780. The powers and responsibilities of the department as the state administering agency for the California Community Services Block Grant Program are those necessary to do all of the following:

(a) Ensure that all applicable federal requirements of Subtitle B of Title VI of Public Law 97-35, as amended, are met.

(b) Define and enforce state standards of programmatic performance and fiscal accountability, including, but not limited to, any assurances that the state makes in its state plan.

(c) Promulgate regulations and execute grants and contracts necessary or convenient for the exercise of its responsibilities, powers, and functions under the Community Services Block Grant.

(d) Ensure that the administrative requirements of this program are clear and uniform.

(e) Provide adequate safeguards for the due process rights of eligible entities and beneficiaries.

SEC. 32. Section 12781 of the Government Code is amended to read:

12781. The department shall have the following powers and duties:

(a) Development of an orderly grant application process culminating in a prescribed contract.

(b) Ensuring that eligible entities will have a timely cashflow within the guidelines of the federal Cash Management Improvement Act of 1990 (P.L. 101-453), as amended. The department shall issue to each eligible entity an advance payment at the beginning of the contract period equal to 25 percent of the eligible entity's total contract amount. Payments thereafter shall be equal to expenditures reported on the eligible entity's financial progress reports, not to exceed the eligible entity's total contract amount.

(c) Promulgation of uniform contracts management standards to include:

(1) Standards for fiscal control and fund accounting that do all of the following:

(A) Require new eligible entities to be certified by an accountant prior to receiving financial assistance.

(B) Require periodic financial reporting to the office and an annual audit.

(C) Permit a defined range of flexibility from approved budgets and the use of negotiated indirect costs rates.

(D) For the purpose of administrative expenditures, permit an eligible entity to use funds allocated under this chapter in an amount not to exceed 12 percent of the total operating funds of its community action program.

(E) Limit the use of funds for construction, as required by federal law.

(2) Minimum standards for procurement to prevent conflict of interest or malfeasance.

(3) Standards regarding property that provide that title to property purchased with funds granted under this chapter or with funds formerly

granted pursuant to the federal Economic Opportunity Act of 1964 (Chapter 34 (commencing with Section 2701) of Title 42 of the United States Code) shall vest in the grantee, subject to conditions requiring prudent property management and the provision for disposition of the property among other eligible entities in the event of closeout.

(4) Procedures for the withholding of payments or recovery of moneys where the underlying cost expenditures or obligations claimed by the eligible entity are disallowed.

(5) Standards for termination or reduction of financial assistance to an eligible entity, or revocation of the designation of a community action agency, for failure to comply with this chapter. The department may terminate or reduce any financial assistance provided to an eligible entity under this chapter forthwith, if the department finds there is evidence of fraud or illegal use of funds. The department also may terminate or reduce any financial assistance to an eligible entity, if the department determines that "cause," as defined in Section 9908(c) of Title 42 of the United States Code, as amended, exists and after providing notice and an opportunity for a hearing on the record, subject to review by the secretary consistent with Section 9915 of Title 42 of the United States Code, as amended.

(d) Promulgation of regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500), of Part 1) that are necessary and appropriate for the effective administration of this chapter. At a minimum these regulations shall clearly define all of the following:

(1) The due process rights, including notification, right of appeal, and opportunity for a fair hearing, of eligible entities, and the procedures to be followed in order to guarantee those rights, in cases of denial of refunding, suspension, reduction, or termination of funding, or revocation of designation by the department.

(2) The obligation of eligible entities to provide a fair procedure for clients denied services by eligible entities.

(3) The requirement that community action agencies select tripartite boards that include persons who represent the poor. These regulations shall ensure that democratic procedures are fully operative and may include criteria for tenure, geographic representation, and election procedures.

(e) Establishment of procedures for orderly closeout of terminated entities.

(f) Monitoring and periodic evaluation of eligible entities, using evaluation methods and standards that have been published prior to the

evaluation and that provide eligible entities an opportunity to respond to evaluation findings.

(g) Development of standards to ensure compliance by eligible entities with federal and state requirements for public access to records, prohibition of partisan political activities, and nondiscrimination.

(h) Establishment of policies and procedures that ensure freedom of information.

(i) Fostering cooperation among community action agencies, including providing opportunities for community action agencies to work together and publishing a directory, that shall be periodically updated, of all grantees under this program and the Low-Income Home Energy Assistance Program (Subchapter II (commencing with Section 8621) of Chapter 94 of Title 42 of the United States Code).

(j) Establishment of procedures for the allocation of the funds available pursuant to subdivision (c) of Section 12759.

(k) Identification and encouragement of linkages with other state departments, local governments or private groups that oversee programs providing resources for low-income persons in order to coordinate existing efforts to overcome poverty.

SEC. 33. Section 12785 of the Government Code is amended to read:

12785. (a) 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 entities eligible for the Community Services Block Grant to full funding levels.

(b) 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.

SEC. 34. Section 12787 of the Government Code is amended to read:

12787. Nothing in this chapter shall be construed to prohibit an eligible entity under Article 6 (commencing with Section 12750), Article 7 (commencing with Section 12765), or Article 8 (commencing with Section 12770), from applying for state discretionary funds, provided that no discretionary funding received by the eligible entity shall be used to duplicate services funded pursuant to other provisions of this chapter.

SEC. 35. Section 25200 of the Welfare and Institutions Code is repealed.

CHAPTER 47

An act to amend Sections 7630, 7822, 7841, 8604, and 8802 of the Family Code, relating to adoption.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. 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 to 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 under Section 7662 or Chapter 2 (commencing with Section 7820) of Part 4 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) (1) If any prospective adoptive parent who has physical custody of the child, or any licensed California adoption agency that has legal custody of the child, has not been joined as a party to an action to determine the existence of a father and child relationship under subdivision (a), (b), or (c), or an action for custody by the alleged natural father, the court shall join the prospective adoptive parent or licensed California adoption agency as a party upon application or on its own motion, without the necessity of a motion for joinder.

(2) If a man brings an action to determine paternity and custody of a child who he has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's mother who are prospective adoptive parents, he shall serve his entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) 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. 2. Section 7822 of the Family Code is amended to read:

7822. (a) A proceeding under this part may be brought if any of the following occur:

(1) The child has been left without provision for the child's identification by the child's parent or parents.

(2) The child has been left by both parents or the sole parent in the care and custody of another person for a period of six months 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.

(3) One parent has left the child 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, with the intent on the part of the parent 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. In the event that a guardian has been appointed for the child, the court may still declare the child abandoned if the parent or parents have failed to communicate with or support the child within the meaning of this section.

(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 agreed for the child to be in the physical custody of another person or persons for adoption and has not signed an adoption placement agreement pursuant to Section 8801.3, a consent to adoption pursuant to Section 8814, or a relinquishment to a licensed adoption agency pursuant to Section 8700, 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 pursuant to Section 8801.3, consented to adoption pursuant to Section 8814, or relinquished the child to a licensed adoption agency pursuant to Section 8700, and has then either revoked the consent or rescinded the relinquishment, 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. 3. Section 7841 of the Family Code is amended to read:

7841. (a) An interested person may file a petition under this part for an order or judgment declaring a child free from the custody and control of either or both parents.

(b) For purposes of this section, an "interested person" is one who has a direct interest in the action, and includes, but is not limited to, a person who has filed, or who intends to file within a period of 6 months, an adoption petition under Section 8714, 8802, or 9000, or a licensed adoption agency to whom the child has been relinquished by the other parent.

SEC. 4. Section 8604 of the Family Code is amended to read:

8604. (a) Except as provided in subdivision (b), a child having a presumed father under Section 7611 may not be adopted without the consent of the child's birth parents, if living. The consent of a presumed father is not required for the child's adoption unless he became a presumed father as described in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 of Division 12, or subdivision (a), (b), or (c) of Section 7611 before the mother's relinquishment or consent becomes irrevocable or before the mother's parental rights have been terminated.

(b) If one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of the child when able to do so, then the birth parent having sole custody may consent to the adoption, but only after the birth parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires the birth parent not having custody to appear at the time and place set for the appearance in court under Section 8718, 8823, 8913, or 9007.

(c) Failure of a birth parent to pay for the care, support, and education of the child for the period of one year or failure of a birth parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse. If the birth parent or parents have made only token efforts to support or communicate with the child, the court may disregard those token efforts.

SEC. 5. Section 8802 of the Family Code is amended to read:

8802. (a) (1) Any of the following persons who desire to adopt a child may, for that purpose, file a petition in the county in which the petitioner resides or, if the petitioner is not a resident of this state, in the county in which the placing birth parent or birth parents resided when the adoption placement agreement was signed, or the county in which the placing birth parent or birth parents resided when the petition was filed:

(A) An adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

(B) A person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

(C) A person with whom a child has been placed for adoption.

(D) (i) A legal guardian who has been the child's legal guardian for more than one year.

(ii) If the child is alleged to have been abandoned pursuant to Section 7822, a legal guardian who has been the child's legal guardian for more than six months. The legal guardian may file a petition pursuant to Section 7822 in the same court and concurrently with a petition under this section.

(iii) However, if the parent nominated the guardian for a purpose other than adoption for a specified time period, or if the guardianship was established pursuant to Section 360 of the Welfare and Institutions Code, the guardianship shall have been in existence for not less than three years.

(2) If the child has been placed for adoption, a copy of the adoptive placement agreement shall be attached to the petition. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(3) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption.

(b) The petition shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition does not affect the jurisdiction of the court to proceed or the validity of an adoption order or other order based on the petition.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition.

The guardianship proceeding shall be consolidated with the adoption proceeding.

(e) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

CHAPTER 48

An act to amend Section 15657.3 of the Welfare and Institutions Code, relating to elderly and dependent adults.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 15657.3 of the Welfare and Institutions Code is amended to read:

15657.3. (a) The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abduction, as defined in Section 15610.06, or the abuse of an elderly or dependent adult, if a conservator has been appointed for plaintiff prior to the initiation of the action for abuse.

(b) The department of the superior court having jurisdiction over probate conservatorships shall not grant relief under this article if the court determines that the matter should be determined in a civil action, but shall instead transfer the matter to the general civil calendar of the superior court. The court need not abate any proceeding for relief pursuant to this article if the court determines that the civil action was filed for the purpose of delay.

(c) The death of the elder or dependent adult does not cause the court to lose jurisdiction of any claim for relief for abuse of an elder or dependent adult.

(d) (1) Subject to paragraph (2) and subdivision (e), after the death of the elder or dependent adult, the right to commence or maintain an action shall pass to the personal representative of the decedent. If there is no personal representative, the right to commence or maintain an action shall pass to any of the following, if the requirements of Section 377.32 of the Code of Civil Procedure are met:

(A) An intestate heir whose interest is affected by the action.

(B) The decedent's successor in interest, as defined in Section 377.11 of the Code of Civil Procedure.

(C) An interested person, as defined in Section 48 of the Probate Code, as limited in this subparagraph. As used in this subparagraph, "an interested person" does not include a creditor or a person who has a claim against the estate who is not an heir or beneficiary of the decedent's estate.

(2) If the personal representative refuses to commence or maintain an action or if the personal representative's family or an affiliate, as those terms are defined in subdivision (c) of Section 1064 of the Probate Code, is alleged to have committed abuse of the elder or dependent adult, the persons described in subparagraphs (A), (B), and (C) of paragraph (1) shall have standing to commence or maintain an action for elder abuse. Nothing in this paragraph shall require the court to resolve the merits of an elder abuse action for the purposes of finding that a plaintiff who meets the qualifications of subparagraphs (A), (B), and (C) of paragraph (1) has standing to commence or maintain such an action.

(e) If two or more persons who are either described in subparagraphs (A), (B), or (C) of paragraph (1) of subdivision (d), or a personal representative claim to have standing to commence or maintain an action for elder abuse, upon petition or motion, the court in which the action or proceeding is pending, may make any order concerning the parties that is appropriate to ensure the proper administration of justice in the case pursuant to Section 377.33 of the Code of Civil Procedure.

(f) This section does not affect the applicable statute of limitations for commencing an action for relief for abuse of an elderly or dependent adult.

CHAPTER 49

An act to amend Section 76102 of the Government Code, relating to county penalties.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 76102 of the Government Code is amended to read:

76102. (a) For the purpose of assisting any county in the establishment of adequate fingerprint facilities and adequate suspect booking identification facilities, including, but not limited to, digital image photographic suspect booking identification facilities, in the

county, the board of supervisors may establish in the county treasury an Automated Fingerprint Identification and Digital Image Photographic Suspect Booking Identification System Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated fingerprint equipment and digital image photographic equipment, replacement of existing automated fingerprint equipment, digital image photographic equipment, and other equipment needed for the suspect booking process, and for the reimbursement of local agencies within the county which have previously purchased, leased, operated, or maintained automated fingerprint equipment and digital image photographic equipment from other funding sources.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Automated fingerprint equipment" means that equipment designated for the storage or retrieval of fingerprint data which is compatible with the California Identification System Remote Access Network.

(2) "Digital photographic equipment" means that equipment designed for the capture, storage, retrieval, or transmittal of digital photographic images of persons who are booked as a result of having been arrested or charged with a crime.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

CHAPTER 50

An act to amend Section 7316 of the Business and Professions Code, relating to barbering and cosmetology.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, or manicuring the nails of any person or massaging, cleansing, or beautifying the hands or feet of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair. This paragraph shall become inoperative on July 1, 2009.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

CHAPTER 51

An act to amend Sections 11224 and 11225 of the Elections Code, relating to elections.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 11224 of the Elections Code is amended to read:

11224. (a) Except as provided in Section 11225, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays,

and holidays, the elections official shall examine the petition, and from the records of registration, ascertain whether or not the petition is signed by the requisite number of voters. If the elections official's examination shows that the number of valid signatures is greater than the required number, the elections official shall certify the petition to be sufficient. If the number of valid signatures is less than the required number, the elections official shall certify the petition to be insufficient.

(b) In determining the number of valid signatures, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The elections official shall attach to the petition a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(d) If the petition is found sufficient, the elections official shall certify the results of the examination to the governing board at its next regular meeting.

SEC. 2. Section 11225 of the Elections Code is amended to read:

11225. (a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 11222, more than 500 signatures have been signed on the petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in a manner so that every signature filed with the elections official shall have an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is greater than 110 percent of the required number, the elections official shall certify the petition to be sufficient.

(c) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall examine and verify each signature filed. If the elections official's examination of each signature shows that the number of valid signatures is greater than the required number, the elections official shall certify the petition to be sufficient. If the number of valid signatures is less than the required number, the elections official shall certify the petition to be insufficient.

(d) If the statistical sampling shows that the number of valid signatures is less than 90 percent of the required number, the elections official shall certify the petition to be insufficient.

(e) In determining from the records of registration the number of valid signatures signed on the petition, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(f) The elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(g) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(h) If the petition is found to be sufficient, the elections official shall certify the results of the examination to the governing body at its next regular meeting.

CHAPTER 52

An act to amend Section 73501 of the Water Code, relating to water.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 73501 of the Water Code is amended to read:

73501. (a) Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division.

(b) "Association" means the San Francisco Bay Area Water Users Association.

(c) "Bay area regional water system" means the facilities for the storage, treatment, and transmission of water located in the Counties of Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, and San Mateo, together with three terminal reservoirs in the city.

(d) "Bay area wholesale customers" means the 25 public agencies in the Counties of San Mateo, Alameda, and Santa Clara that purchase water from the city pursuant to the master water sales contract, including the Alameda County Water District, the City of Brisbane, the City of Burlingame, the Coastside County Water District, the City of Daly City, the City of East Palo Alto, the Estero Municipal Improvement District, Guadalupe Valley Municipal Improvement District, City of Hayward, the Town of Hillsborough, the City of Menlo Park, the Mid-Peninsula Water District, the City of Millbrae, the City of Milpitas, the City of

Mountain View, the North Coast County Water District, the City of Palo Alto, the Purissima Hills Water District, the City of Redwood City, the City of San Bruno, the City of San Jose, the City of Santa Clara, the Skyline County Water District, the City of Sunnyvale, and the Westborough Water District, Stanford University, the California Water Service Company, and the Cordilleras Mutual Water Association.

(e) "City" means the City and County of San Francisco.

(f) "Master water sales contract" means the agreement entitled "Settlement Agreement and Master Water Sales Contract between the City and County of San Francisco and Certain Suburban Purchasers" entered into in 1984 by the city and the wholesale customers.

(g) "Regional water system" means facilities for the storage, treatment, and transmission of water owned and operated by a regional wholesale water supplier, other than the city.

(h) "Regional wholesale water supplier" means any city, county, or city and county, including the city, that operates a regional water system, and furnishes water on a wholesale basis to local government agencies and public utilities that, in turn, supply water to a combined population of 1.5 million or more residents of geographic areas outside the boundary of the regional wholesale water supplier.

(i) "Wholesale customers" means local government agencies and public utilities, including, but not limited to, the bay area wholesale customers, that purchase water from a regional wholesale water supplier and distribute that water to retail customers in their respective service areas.

CHAPTER 53

An act to amend Section 11234 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 11234 of the Business and Professions Code is amended to read:

11234. A developer shall prepare, for issuance by the commissioner, a public report that shall fully and accurately disclose those facts concerning the time-share developer and time-share plan that are required by this chapter or by regulation. The developer shall provide the public

report to each purchaser of a time-share interest in a time-share plan at the time of purchase. The public report shall be in writing and dated and shall require the purchaser to certify in writing the receipt thereof. The public report for a single site time-share plan is subject to the requirements of subdivision (a). The public report for a specific time-share interest multisite time-share plan is subject to the requirements of both subdivisions (a) and (b). The public report for a nonspecific time-share interest multisite time-share plan is subject to the requirements of subdivision (c). For time-share plans located outside of the state, a public report that has been authorized for use by the situs state regulatory agency and that contains disclosures as determined by the commissioner upon review to be substantially equivalent to or greater than the information required to be disclosed pursuant to this section may be used by the developer to meet the requirements of this section. A developer may, upon approval by the commissioner, submit a public report that combines, in a manner prescribed by the commissioner, the information required to be disclosed by the applicable subdivisions of this section and the information required to be disclosed in a public report issued by a regulatory agency in one or more other states.

(a) Public reports for a single site and those component sites of a specific time-share interest multisite time-share plan that are offered in this state shall include the following:

(1) The name and address of the developer and the type of time-share plan being offered and the name and address of the time-share project.

(2) A description of the existing or proposed accommodations, including the type and number of time-share interests in the accommodations, and if the accommodations are proposed or not yet complete or fully functional, an estimated date of completion.

(3) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to the time-share plan, committed to the multisite time-share plan, and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(4) A description of any existing or proposed amenities of the time-share plan and, if the amenities are proposed or not yet complete or fully functional, the estimated date of completion.

(5) The extent to which financial arrangements have been made for the completion of any incomplete, promised improvements.

(6) A description of the duration, phases, and operation of the time-share plan.

(7) The name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it.

(8) The current annual budget as required by Section 11240, along with the projected assessments and a description of the method for calculating and apportioning the assessments among purchasers, all of which shall be attached as an exhibit to the public report.

(9) Any initial or special fee due from the purchaser at closing together with a description of the purpose and the method of calculating the fee.

(10) A description of any financing offered by or available through the developer.

(11) A description of any liens, defects, or encumbrances on or affecting the title to the time-share interests.

(12) A description of any bankruptcies, pending civil or criminal suits, adjudications, or disciplinary actions of which the developer has knowledge, that would have a material effect on the developer's ability to perform its obligations.

(13) Any current or expected fees or charges to be paid by time-share purchasers for the use of any amenities related to the time-share plan.

(14) A description and amount of insurance coverage provided for the protection of the purchaser.

(15) The extent to which a time-share interest may become subject to a tax lien or other lien arising out of claims against purchasers of different time-share interests.

(16) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time-share interest.

(17) A statement disclosing that a deposit made in connection with the purchase of a time-share interest shall be held by an escrow agent until expiration of any right to cancel the contract and that a deposit shall be returned to the purchaser if he or she elects to exercise his or her right of cancellation. Alternatively, if the commissioner has accepted from the developer a surety bond, irrevocable letter of credit, or other financial assurance, each of which shall be enforceable by the association, in lieu of placing deposits in an escrow account: (A) a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other financial assurance in an amount equal to or in excess of the funds that would otherwise be placed in an escrow account, (B) a description of the type of financial assurance that has been obtained, (C) a statement that if the purchaser elects to exercise his or her right of cancellation as provided in the contract, the developer shall return the deposit, and (D) a description of the person or entity to whom the purchaser should apply for payment.

(18) A statement that the assessments collected from the purchasers will be kept in a segregated account separate from the assessments collected from the purchasers of other time-share plans managed by the same managing entity, along with a statement identifying the location of the account and a disclosure of the rights of owners to inspect the records pertaining to their accounts.

(19) If the time-share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program.

(20) Any other information that the developer, with the approval of the commissioner, desires to include in the public report.

(21) Any other information reasonably requested by the commissioner.

(b) Public reports for specific time-share interest multisite time-share plans shall include the following additional disclosures:

(1) A description of each component site, including the name and address of each component site.

(2) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to each component site of the time-share plan, committed to the multisite time-share plan and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(3) Each type of accommodation in terms of the number of bedrooms, bathrooms, and sleeping capacity, and a statement of whether or not the accommodation contains a full kitchen. For purposes of this description, a "full kitchen" means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

(4) A description of amenities available for use by the purchaser at each component site.

(5) A description of the reservation system, which shall include the following:

(A) The entity responsible for operating the reservation system, its relationship to the developer, and the duration of any agreement for operation of the reservation system.

(B) A summary of the rules and regulations governing access to and use of the reservation system.

(C) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come-first-served basis.

(6) The name and principal address of the managing entity for the multisite time-share plan and a description of the procedures, if any, for

altering the powers and responsibilities of the managing entity and for removing or replacing it.

(7) A description of any right to make any additions, substitutions, or deletions of accommodations, amenities, or component sites, and a description of the basis upon which accommodations, amenities, or component sites may be added to, substituted in, or deleted from the multisite time-share plan.

(8) A description of the purchaser's liability for any fees associated with the multisite time-share plan.

(9) The location of each component site of the multisite time-share plan, the historical occupancy of each component site for the prior 12-month period, if the component site was part of the multisite time-share plan during the 12-month time period, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at that time within the multisite time-share plan.

(10) Any other information that the developer, with the approval of the commissioner, desires to include in the time-share disclosure statement.

(c) Public reports for nonspecific time-share interest multisite time-share plans shall include the following:

(1) The name and address of the developer.

(2) A description of the type of interest and usage rights the purchaser will receive.

(3) A description of the duration and operation of the time-share plan.

(4) A description of the type of insurance coverage provided for each component site.

(5) An explanation of who holds title to the accommodations of each component site.

(6) A description of each component site, including the name and address of each component site.

(7) The number of accommodations and time-share interests, expressed in periods of seven-day use availability or other time increments applicable to the multisite time-share plan for each component site committed to the multisite time-share plan and available for use by purchasers and a representation about the percentage of useable time authorized for sale, and if that percentage is 100 percent, then a statement describing how adequate periods of time for maintenance and repair will be provided.

(8) Each type of accommodation in terms of the number of bedrooms, bathrooms, and sleeping capacity, and a statement of whether or not the accommodation contains a full kitchen. For purposes of this description,

a "full kitchen" means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

(9) A description of amenities available for use by the purchaser at each component site.

(10) A description of any incomplete amenities at any of the component sites along with a statement as to any assurance for completion and the estimated date the amenities will be available.

(11) The location of each component site of the multisite time-share plan, the historical occupancy of each component site for the prior 12-month period, if the component site was part of the multisite time-share plan during such 12-month time period, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at that time within the multisite time-share plan.

(12) A description of any right to make any additions, substitutions, or deletions of accommodations, amenities, or component sites, and a description of the basis upon which accommodations, amenities, or component sites may be added to, substituted in, or deleted from the multisite time-share plan.

(13) A description of the reservation system that shall include all of the following:

(A) The entity responsible for operating the reservation system, its relationship to the developer, and the duration of any agreement for operation of the reservation system.

(B) A summary of the rules and regulations governing access to and use of the reservation system.

(C) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come-first-served basis.

(14) A description of any liens, defects, or encumbrances that materially affect the purchaser's use rights.

(15) The name and principal address of the managing entity for the multisite time-share plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it, and a description of the relationship between a multisite time-share plan managing entity and the managing entity of the component sites of a multisite time-share plan, if different from the multisite time-share plan managing entity.

(16) The current annual budget as provided in Section 11240, along with the projected assessments and a description of the method for calculating and apportioning the assessments among purchasers, all of which shall be attached as an exhibit to the public report.

(17) Any current fees or charges to be paid by time-share purchasers for the use of any amenities related to the time-share plan and a statement that the fees or charges are subject to change.

(18) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(19) A description of any financing offered by or available through the developer.

(20) A description of any bankruptcies, pending civil or criminal suits, adjudications, or disciplinary actions of which the developer has knowledge, which would have a material effect on the developer's ability to perform its obligations.

(21) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time-share interest.

(22) A statement disclosing that a deposit made in connection with the purchase of a time-share interest shall be held by an escrow agent until expiration of any right to cancel the contract and that a deposit shall be returned to the purchaser if he or she elects to exercise his or her right of cancellation. Alternatively, if the commissioner has accepted from the developer a surety bond, irrevocable letter of credit, or other financial assurance in lieu of placing deposits in an escrow account: (A) a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other financial assurance in an amount equal to or in excess of the funds that would otherwise be placed in an escrow account, (B) a description of the type of financial assurance that has been arranged, (C) a statement that if the purchaser elects to exercise his or her right of cancellation as provided in the contract, the developer shall return the deposit, and (D) a description of the person or entity to whom the purchaser should apply for payment.

(23) If the time-share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program.

(24) Any other information that the developer, with the approval of the commissioner, desires to include in the time-share disclosure statement.

(d) The commissioner may establish by regulation provisions regarding the delivery of the public report and other required information through alternative media forms.

(e) The commissioner may, upon finding that the subject matter is otherwise adequately covered or the information is unnecessary or inapplicable, waive any requirement set forth in this section.

CHAPTER 54

An act to amend Section 84215 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 84215 of the Government Code is amended to read:

84215. All candidates and elected officers and their controlled committees, except as provided in subdivision (e), shall file one copy of the campaign statements required by Section 84200 with the elections official of the county in which the candidate or elected official is domiciled, as defined in subdivision (b) of Section 349 of the Elections Code. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers and candidates for these offices other than the Board of Equalization, supreme court justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, supreme court justices, or statewide measures, or the qualification of state ballot measures, and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive:

(1) The original and one copy with the Secretary of State.

(2) One copy with the Registrar-Recorder of Los Angeles County.

(3) One copy with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) One copy with the elections official of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the elections official of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general purpose committees shall file the original and one copy with the elections official of the county.

(e) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the elections official of the county in which they are domiciled.

(f) Notwithstanding the above, a committee, candidate, or elected officer is not required to file more than the original and one copy, or one copy, of a campaign statement with any one county elections official or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

SEC. 2. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 55

An act to amend Section 18960 of the Health and Safety Code, relating to historical buildings.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 18960 of the Health and Safety Code is amended to read:

18960. (a) A State Historical Building Safety Board is hereby established as a unit within the Division of the State Architect. The board shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building and preservation oriented organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies for purposes of this part. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part or any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard wishes to appeal the issue for resolution to the State Historical Building Safety Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Safety Board shall, upon making a decision on an appeal pursuant to paragraph (1), send a copy to the State Building Standards Commission.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Safety Board. A copy of an interpretation decision shall be sent to the State Building Standards Commission in the same manner as paragraph (2).

(4) The State Historical Building Safety Board may charge a reasonable fee, not to exceed the cost of the service, for requests for copies of their decisions and for requests for reviews by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established, for use by the State Historical Building Safety Board. The State Historical Building Code Fund and the fees collected therefor, and the budget of the State Historical Building Safety Board, shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design, construction, and preservation organizations experienced in dealing with historic buildings. Unless otherwise indicated, each named organization shall appoint its own representatives. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

(1) The Division of the State Architect.

(2) The State Fire Marshal.

(3) The State Historical Resources Commission.

(4) The California Occupational Safety and Health Standards Board.

(5) California Council, American Institute of Architects.

(6) Structural Engineers Association of California.

(7) A mechanical engineer, Consulting Engineers and Land Surveyors of California.

(8) An electrical engineer, Consulting Engineers and Land Surveyors of California.

(9) California Council of Landscape Architects.

(10) The Department of Housing and Community Development.

(11) The Department of Parks and Recreation.

(12) The California State Association of Counties.

(13) League of California Cities.

(14) The Office of Statewide Health Planning and Development.

(15) The Department of Rehabilitation.

(16) The California Chapter of the American Planning Association.

(17) The Department of Transportation.

(18) The California Preservation Foundation.

(19) The Seismic Safety Commission.

(20) The California Building Officials.

(21) The Building Owners and Managers Association of California.

The 21 members listed above shall select a building contractor as a member of the board, who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities shall appoint, in the same manner as for members, an alternate in addition to a member. The alternate member shall serve in place of the member at the meetings of the board that the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in

the place of the member. The board may appoint, from time to time, as it deems necessary, consultants who shall serve without pay but shall receive actual and necessary expenses as approved by the board.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

CHAPTER 56

An act to amend Sections 39807.5, 47646, 48915.5, 56021.1, 56026, 56026.3, 56027, 56028.5, 56030, 56032, 56040, 56043, 56045, 56046, 56050, 56055, 56100, 56101, 56125, 56129, 56138, 56146, 56156, 56167, 56167.5, 56168, 56170, 56172, 56174, 56174.5, 56175, 56194, 56205, 56240, 56243, 56245, 56300, 56302, 56320, 56321.5, 56322, 56328, 56330, 56331, 56337, 56340, 56341.1, 56342, 56342.1, 56342.5, 56343.5, 56345.5, 56347, 56351, 56351.5, 56352, 56361.5, 56362, 56363.1, 56363.3, 56363.5, 56365, 56366.1, 56366.2, 56366.3, 56366.8, 56369, 56383, 56425, 56426.25, 56426.6, 56426.9, 56431, 56440, 56441.11, 56443, 56454, 56456, 56473, 56475, 56476, 56500, 56500.5, 56500.6, 56501, 56504, 56504.5, 56506, 56507, 56508, 56601.5, 56606, 56836.04, 56845, 56851, and 56863 of, to repeal Article 13 (commencing with Section 49580) of Chapter 9 of Part 27 of Division 4 of Title 2 of, and to repeal Chapter 9 (commencing with Section 56875) of Part 30 of Division 4 of Title 2 of, the Education Code, and to amend Sections 7570, 7571, 7572.5, 7576, 7579.5, 7579.6, 7585, 7586.5, 7586.6, 7586.7, 95001, 95003, 95006, 95007, 95008, 95014, 95016, 95018, 95020, 95024, 95026, 95028, and 95029 of the Government Code, relating to special education.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 39807.5 of the Education Code is amended to read:

39807.5. (a) When the governing board of a school district provides for the transportation of pupils to and from schools in accordance with Section 39800, or between the regular full-time day schools they would attend and the regular full-time occupational training classes attended

by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of this transportation in an amount determined by the governing board.

(b) The amount determined by the governing board shall be no greater than the statewide average nonsubsidized cost of providing this transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent, in cooperation with the Department of Transportation.

(c) For purposes of this section, "nonsubsidized cost" means actual operating costs less federal subventions.

(d) The governing board shall exempt from these charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board.

(e) A charge under this section may not be made for the transportation of individuals with exceptional needs as defined in Section 56026.

(f) Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

SEC. 2. Section 47646 of the Education Code is amended to read:

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations, including Section 300.209 of Title 34 of the Code of Federal Regulations.

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education program.

(2) Any necessary special education services, including administrative and support services and itinerant services, that are provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

SEC. 3. Section 48915.5 of the Education Code is amended to read:

48915.5. (a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

SEC. 3.5. Article 13 (commencing with Section 49580) of Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code is repealed.

SEC. 4. Section 56021.1 of the Education Code is amended to read:

56021.1. "Consent," as provided in Section 300.9 of Title 34 of the Code of Federal Regulations, means all of the following:

(a) The parent or guardian has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication.

(b) The parent or guardian understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; and the consent describes that activity and lists the records, if any, that will be released and to whom.

(c) The parent or guardian understands that the granting of consent is voluntary on the part of the parent or guardian and may be revoked at any time. If a parent or guardian revokes consent, that revocation is not retroactive to negate an action that has occurred after the consent was given and before the consent was revoked.

SEC. 5. Section 56026 of the Education Code is amended to read:

56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as a child with a disability, as that phrase is defined in Section 1401(3)(A) of Title 20 of the United States Code.

(b) Their impairment, as described by subdivision (a), requires instruction and services which cannot be provided with modification of the regular school program in order to ensure that the individual is provided a free appropriate public education pursuant to Section 1401(9) of Title 20 of the United States Code.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the local educational agency as requiring intensive special education and services, as defined by the board.

(2) Between the ages of three to five years, inclusive, and identified by the local educational agency pursuant to Section 56441.11.

(3) Between the ages of five and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards or has not graduated from high school with a regular high school diploma.

(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year.

(D) No local educational agency may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless disabled within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to limited English proficiency; a lack of instruction in reading or mathematics; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

SEC. 5.5. Section 56026.3 of the Education Code is amended to read:

56026.3. "Local educational agency" means a school district, a county office of education, a nonprofit charter school participating as a member of a special education local plan area, or a special education local plan area.

SEC. 6. Section 56027 of the Education Code is amended to read:

56027. "Local plan" means a plan that meets the requirements of Chapter 2.5 (commencing with Section 56195) and Chapter 3 (commencing with Section 56205) and that is submitted by a single school district, two or more school districts, or one or more school districts together with one or more county offices of education.

SEC. 7. Section 56028.5 of the Education Code is amended to read:

56028.5. "Public agency" means a school district, county office of education, special education local plan area, a nonprofit charter school that is not otherwise included as a local educational agency and is not a school within a local educational agency, or any other public agency under the auspices of the state or any political subdivisions of the state

providing special education or related services to individuals with exceptional needs. For purposes of this part, "public agency," means all of the public agencies listed in Section 300.33 of Title 34 of the Code of Federal Regulations.

SEC. 8. Section 56030 of the Education Code is amended to read:

56030. "Responsible local agency" means the school district or county office designated in the local plan as the administrative entity whose duties shall include, but are not limited to, receiving and distributing regionalized services funds, providing administrative support, and coordinating the implementation of the plan.

SEC. 9. Section 56032 of the Education Code is amended to read:

56032. "Individualized education program" means a written document described in Sections 56345 and 56345.1 for an individual with exceptional needs that is developed, reviewed, and revised in a meeting in accordance with Sections 300.320 to 300.328, inclusive, of Title 34 of the Code of Federal Regulations and this part. It also means "individualized family service plan" as described in Section 1436 of Title 20 of the United States Code if the individualized education program pertains to an individual with exceptional needs younger than three years of age.

SEC. 10. Section 56040 of the Education Code is amended to read:

56040. (a) Every individual with exceptional needs who is eligible to receive special education instruction and related services under this part, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A free appropriate public education shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

(b) An individual, aged 18 through 21 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as being an individual with exceptional needs or did not have an individualized education program under this part, is not entitled to a free appropriate public education pursuant to Section 1412(a)(1)(B)(ii) of Title 20 of the United States Code.

SEC. 11. Section 56043 of the Education Code is amended to read:

56043. The primary timelines affecting special education programs are as follows:

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.

(e) A parent or guardian shall be notified of the individualized education program team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5. In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.

(f) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to Section 56344.

(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(g) (1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345.

(2) The individualized education program for pupils in grades 7 to 12, inclusive, shall include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, pursuant to paragraph (1) of subdivision (b) of Section 56345.

(3) Beginning not later than one year before the pupil reaches the age of 18 years, the individualized education program shall contain a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years, pursuant to Section 56041.5, subdivision (g) of Section 56345, and Section 300.520 of Title 34 of the Code of Federal Regulations.

(h) Beginning at the age of 16 years or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code.

(i) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting, pursuant to Section 3040 of Title 5 of the California Code of Regulations.

(j) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343. The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1, pursuant to subdivision (a) of Section 56380.

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section 56381, and in accordance with Section 1414(a)(2) of Title 20 of the United States Code.

(*l*) A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays,

from the date of receipt of the parent's or guardian's written request, pursuant to Section 56343.5.

(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable pursuant to Section 56325:

(1) If the child has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law, pursuant to paragraph (1) of subdivision (a) of Section 56325.

(2) If the child has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325.

(3) If the child has an individualized education program and transfers from an educational agency located outside the state to a district within the state within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, until the local educational agency conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325.

(4) In order to facilitate the transition for an individual with exceptional needs described in paragraphs (1) to (3), inclusive, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records, as specified, pursuant to subdivision (b) of Section 56325.

(n) The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made by the parent or

guardian, either orally or in writing, and before any meeting regarding an individualized education program of his or her child or any hearing or resolution session pursuant to Chapter 5 (commencing with Section 56500), in accordance with Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(o) Upon receipt of a request from a local educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, to the new local educational agency within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

(p) The department shall do all of the following:

(1) Have a time limit of 60 calendar days after a complaint is filed with the state educational agency to investigate the complaint.

(2) Give the complainant the opportunity to submit additional information about the allegations in the complaint.

(3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(4) Issue a written decision pursuant to Section 300.152(a)(5) of Title 34 of the Code of Federal Regulations.

(q) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the Superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.

(r) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within three years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, except that this timeline shall not apply to a parent if the parent was prevented from requesting the due process hearing, pursuant to subdivision (*l*) of Section 56505.

(s) The Superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (a) of Section 56502.

(t) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be

given to the other party at least 10 calendar days prior to the hearing, pursuant to subdivision (a) of Section 56507.

(u) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

(v) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.

(w) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (i) of Section 56505.

(x) When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full individualized education program team of all of the following pursuant to paragraph (2) of subdivision (c) of Section 7572.5 of the Government Code:

(1) The case progress.

(2) The continuing need for out-of-home placement.

(3) The extent of compliance with the individualized education program.

(4) Progress toward alleviating the need for out-of-home care.

(y) A complaint filed with the department shall allege a violation of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred not more than one year prior to the date that the complaint is received by the department, pursuant to Section 56500.2 and Section 300.153(c) of Title 34 of the Code of Federal Regulations.

SEC. 12. Section 56045 of the Education Code is amended to read:

56045. (a) The Superintendent shall send a notice to the governing board of each local educational agency within 30 days of when the Superintendent determines any of the following:

(1) The local educational agency is substantially out of compliance with one or more significant provisions of this part, the implementing regulations, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations.

(2) The local educational agency fails to comply substantially with corrective action orders issued by the department resulting from focused monitoring findings or complaint investigations.

(3) The local educational agency fails to implement the decision of a due process hearing officer for noncompliance with provisions of this part, the implementing regulations, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free appropriate public education for an individual with exceptional needs.

(b) The notice shall provide a description of the special education and related services that are required by law and with which the local educational agency is not in compliance.

(c) Upon receipt of the notification sent pursuant to subdivision (a), the governing board shall at a regularly scheduled public hearing address the issue of noncompliance.

SEC. 13. Section 56046 of the Education Code is amended to read:

56046. (a) An employee of a local educational agency shall not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any person, including, but not limited to, a teacher, a provider of designated instruction and services, a paraprofessional, an instructional aide, a behavioral aide, a health aide, other educators or staff of the local educational agency, a private individual or entity under contract with the local educational agency, or a subordinate of the employee, for the purpose of interfering with the action of that person at any time, to assist a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil.

(b) If a person described in subdivision (a), believes an employee or agent of a local educational agency is in violation of subdivision (a) because of using or attempting to use official authority or influence, that person may file a complaint under the Uniform Complaint Procedures as set forth in Title 5 of the California Code of Regulations. If a person files a complaint pursuant to this subdivision, the state shall intervene directly and the conditions for intervention in Section 4650 of Title 5 of the California Code of Regulations are not applicable.

(c) This section does not limit or alter any right a person described in subdivision (a) may have to file a complaint pursuant to either a governing board-adopted grievance process or a collectively bargained grievance process.

(d) This section does not do any of the following:

(1) Limit or alter the right or duty of a public school official to direct or discipline an employee or contractor.

(2) Prevent a local educational agency from enforcing a law or regulation regarding conflicts of interest, incompatible activities, or the confidentiality of pupil records.

(e) (1) For purposes of this section, "services or accommodations" includes information that would assist a parent or guardian to obtain a free appropriate public education for his or her child as guaranteed by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other services or accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as well as state laws regarding individuals with exceptional needs.

(2) For purposes of this section, "use of official authority or influence" includes promising to confer or conferring any benefit, affecting or threatening to affect any reprisal, or taking, directing others to take, recommending, processing, or approving any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action. "Use of official authority or influence" does not include good faith advocacy by an employee of a public school agency, to any person including another agency employee or contractor, regarding the services, if any, to be provided to a pupil under the laws referred to in paragraph (1).

(f) This section does not diminish the rights, privileges, or remedies of a public school employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) A school employee's or contractor's assistance offered to a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil shall not interfere with the school employee's or contractor's regular duties for the local educational agency.

SEC. 14. Section 56050 of the Education Code is amended to read:

56050. (a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in Section 300.519 of Title 34 of the Code of Federal Regulations.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate public education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health

treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code.

SEC. 15. Section 56055 of the Education Code is amended to read:

56055. (a) (1) Except as provided in subdivisions (b), (c), and (d), a foster parent may exercise, to the extent permitted by federal law, including, but not limited to, Section 300.30 of Title 34 of the Code of Federal Regulations, the rights related to his or her foster child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 (commencing with Section 300.1) of Title 34 of the Code of Federal Regulations. The foster parent may represent the foster child for the duration of the foster parent-foster child relationship in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising an individualized education program, if necessary, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The foster parent may sign any consent relating to individualized education program purposes.

(2) A foster parent exercising rights relative to a foster child under this section may consult with the parent or guardian of the child to ensure continuity of health, mental health, or other services.

(b) A foster parent who had been excluded by court order from making educational decisions on behalf of a pupil does not have the rights relative to the pupil set forth in subdivision (a).

(c) This section only applies if the juvenile court has limited the right of the parent or guardian to make educational decisions on behalf of the child, and the child has been placed in a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or paragraph (5) or (6) of subdivision (b) of Section 727.3 of the Welfare and Institutions Code.

(d) For purposes of this section, a foster parent shall include a person, relative caretaker, or nonrelative extended family member as defined in Section 362.7 of the Welfare and Institutions Code, who has been

licensed or approved by the county welfare department, county probation department, or the State Department of Social Services, or who has been designated by the court as a specified placement.

SEC. 16. Section 56100 of the Education Code is amended to read:

56100. The board shall do all of the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans.

(c) Adopt size and scope standards for determining the efficacy of local plans submitted by special education local plan areas, pursuant to subdivision (a) of Section 56195.1.

(d) Provide review, upon petition, to a local educational agency that appeals a decision made by the department that affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600). This plan may be approved for up to three years.

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents or guardians in assessing a pupil's individualized education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all individualized education programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

(k) Adopt rules and regulations regarding the ownership and transfer of materials and equipment, including facilities, related to transfer of programs, reorganization, or restructuring of special education local plan areas.

SEC. 17. Section 56101 of the Education Code is amended to read:

56101. (a) A public agency, as defined in Section 56028.5, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or affect the compliance of a local educational agency with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a local educational agency with federal mandates for a free appropriate public education for children or youth with disabilities.

SEC. 18. Section 56125 of the Education Code is amended to read:

56125. (a) The Superintendent shall monitor, provide technical assistance, and enforce the provisions of this part pursuant to Section 56600.6.

(b) The Superintendent shall monitor the implementation of local plans by periodically conducting onsite program and fiscal reviews, in accordance with Sections 300.114 to 300.120, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 19. Section 56129 of the Education Code is amended to read:

56129. The Superintendent shall maintain the state special schools and diagnostic centers in accordance with Part 32 (commencing with Section 59000) so that the services of those schools and centers are coordinated with the services of the local educational agency.

SEC. 20. Section 56138 of the Education Code is amended to read:

56138. The Superintendent shall develop, and the board shall adopt, performance goals and indicators for individuals with exceptional needs that are consistent with, to the maximum extent appropriate, the standards for all pupils in the public education system, in accordance with the provisions of Section 1412(a)(15) of Title 20 of the United States Code and Section 300.157 of Title 34 of the Code of Federal Regulations.

SEC. 21. Section 56146 of the Education Code is amended to read:

56146. It is the intent of the Legislature that local plans for special education local plan areas, adopted pursuant to Chapter 2.5 (commencing with Section 56195) and Chapter 3 (commencing with Section 56205), shall provide for federal funds available under Part B of the federal

Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) to individuals with exceptional needs enrolled in charter schools.

SEC. 22. Section 56156 of the Education Code is amended to read:

56156. (a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the special education local plan area in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

(1) Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a child who is a ward or dependent of the court.

(2) The location of the parents, in the event that the parents retain the right to make educational decisions.

(3) Whether the location of the parents is unknown.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the special education local plan area in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The Superintendent shall provide each county office of education with a current list of licensed children's institutions in that county at least biannually. The county office shall maintain the most current list of licensed children's institutions located within the county and shall notify each district and special education local plan area within the county of the names of licensed children's institutions located in the geographical area of the county covered by the district and special education local plan area. The county office shall notify the director of each licensed children's institution of the appropriate person to contact regarding individuals with exceptional needs.

SEC. 23. Section 56167 of the Education Code is amended to read:

56167. (a) Individuals with exceptional needs who are placed in a public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a health facility for medical purposes are the educational responsibility of the local educational agency in which the hospital or facility is located, as determined in local written agreements pursuant to subdivision (e) of Section 56195.7.

(b) For the purposes of this part, "health facility" shall have the definition set forth in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

SEC. 24. Section 56167.5 of the Education Code is amended to read:

56167.5. Nothing in this article shall be construed to mean that the placement of any individual with exceptional needs in a hospital or health facility constitutes a necessary residential placement, as described under Section 300.104 of Title 34 of the Code of Federal Regulations, for which the local educational agency would be responsible as an educational program option under this part.

SEC. 25. Section 56168 of the Education Code is amended to read:

56168. (a) A public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a health facility for medical purposes located either within and outside of this state that did not provide special education to individuals with exceptional needs who satisfy the criteria set forth in paragraph (2) of subdivision (c) of Section 56026 pursuant to a waiver granted under Section 56366.2 for the 1994–95 school year, is ineligible for certification as a nonpublic, nonsectarian school pursuant to Section 56034 and Sections 56365 to 56366.5, inclusive, to provide special education to individuals with exceptional needs. Districts, special education local plan areas, or county offices shall have until September 1, 1994, to find an appropriate alternative placement for any children currently served in one of these programs.

(b) Pursuant to Section 56167, the local educational agency in which the hospital or health facility is located has the educational responsibility for individuals with exceptional needs who reside in these facilities.

(c) A hospital or health facility is eligible for certification as a nonpublic, nonsectarian agency pursuant to Section 56035 and Sections 56365 to 56366.5, inclusive, to provide designated instruction and services to individuals with exceptional needs whether the child attends a public or nonpublic school or is enrolled in both a public and nonpublic school program as specified in Section 56361.5.

SEC. 26. Section 56170 of the Education Code is amended to read:

56170. As used in this part, "private school children with disabilities" means children with disabilities enrolled by a parent in private schools or facilities that meet the definition of "elementary school" in Section 300.13 of Title 34 of the Code of Federal Regulations or "secondary school" in Section 300.36 of Title 34 of the Code of Federal Regulations, in accordance with Section 300.130 of Title 34 of the Code of Federal Regulations, other than individuals with exceptional needs placed by a local educational agency in a nonpublic, nonsectarian school pursuant to Section 56365.

SEC. 27. Section 56172 of the Education Code is amended to read:

56172. (a) The local educational agency shall make provision for the participation of private school children with disabilities in special

education programs under this part by providing them with special education and related services in accordance with the provisions of this article and Section 1412(a)(10)(A) of Title 20 of the United States Code and Section 300.132 of Title 34 of the Code of Federal Regulations.

(b) The local educational agency or, where appropriate, the department, shall ensure timely and meaningful consultation with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children in accordance with Section 1412(a)(10)(A)(iii) of Title 20 of the United States Code and Section 300.134 of Title 34 of the Code of Federal Regulations.

(c) When timely and meaningful consultation as required in subdivision (b) has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if the representatives do not provide the affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the department in accordance with Section 1412(a)(10)(A)(iv) of Title 20 of the United States Code.

(d) A private school official shall have the right, pursuant to Section 1412(a)(10)(A)(v) of Title 20 of the United States Code and Section 300.136 of Title 34 of the Code of Federal Regulations, to submit a complaint to the department that the local educational agency did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official.

(e) The provision of equitable services for children enrolled in private schools by their parents shall be provided by employees of a public agency, as defined in Section 56028.5, or through contract by the public agency with an individual, association, agency, organization, or other entity.

(f) Special education and related services, including materials and equipment, provided to a pupil with a disability who has been parentally placed in a private school shall be secular, neutral, and nonideological, as required by Section 1412(a)(10)(A)(vi) of Title 20 of the United States Code and Section 300.138(c)(2) of Title 34 of the Code of Federal Regulations.

SEC. 28. Section 56174 of the Education Code is amended to read:

56174. The local educational agency shall not be required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if the local educational agency made a free appropriate public education available

to the child and the parent of the child elected to place the child in the private school or facility.

SEC. 29. Section 56174.5 of the Education Code is amended to read:

56174.5. (a) Private school individuals with exceptional needs may receive a different amount of services than individuals with exceptional needs in public school receive pursuant to Section 300.138(a)(2) of Title 34 of the Code of Federal Regulations. No private school individual with exceptional needs is entitled to any amount of service the child would receive if enrolled in a public school pursuant to Section 300.137(a) of Title 34 of the Code of Federal Regulations.

(b) Decisions about the services provided to private school individuals with exceptional needs pursuant to this article shall be made pursuant to this section and Sections 300.137 to 300.139, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 30. Section 56175 of the Education Code is amended to read:

56175. If a parent or guardian of an individual with exceptional needs, who previously received special education and related services under the authority of the local educational agency, enrolls the child in a private elementary or secondary school without the consent of or referral by the local educational agency, a court or a due process hearing officer may require the local educational agency to reimburse the parent or guardian for the cost of that enrollment if the court or due process hearing officer finds that the local educational agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment in the private elementary or secondary school and that the private placement is appropriate, in accordance with Section 1412(a)(10)(C)(ii) of Title 20 of the United States Code and Section 300.148(c) of Title 34 of the Code of Federal Regulations.

SEC. 31. Section 56194 of the Education Code is amended to read:

56194. The community advisory committee shall have the authority and fulfill the responsibilities that are defined for it in the local plan. The responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the special education local plan area regarding the development, amendment, and review of the local plan. The entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent awareness of the importance of regular school attendance.

SEC. 32. Section 56205 of the Education Code is amended to read:

56205. (a) Each special education local plan area submitting a local plan to the Superintendent under this part shall ensure, in conformity with Sections 1412(a) and 1413(a)(1) of Title 20 of the United States Code, and in accordance with Section 300.201 of Title 34 of the Code of Federal Regulations that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:

(1) Free appropriate public education.

(2) Full educational opportunity.

(3) Child find and referral.

(4) Individualized education programs, including development, implementation, review, and revision.

(5) Least restrictive environment.

(6) Procedural safeguards.

(7) Annual and triennial assessments.

(8) Confidentiality.

(9) Transition from Subchapter III (commencing with Section 1431) of Title 20 of the United States Code to the preschool program.

(10) Children in private schools.

(11) Compliance assurances, including general compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.

(B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(C) Verification that a community advisory committee has been established pursuant to Section 56190.

(D) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:

(i) Specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(ii) Identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local educational agencies within the special education local plan area in relation to the following:

(I) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(II) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local educational agencies within the special education local plan area.

(III) The operation of special education programs.

(IV) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(V) The preparation of program and fiscal reports required of the special education local plan area by the state.

(iii) Include copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(E) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9, and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special education and regular education teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

(13) Personnel qualifications to ensure that personnel, including special education teachers and personnel and paraprofessionals providing related services, necessary to implement this part are appropriately and adequately prepared and trained in accordance with Sections 1412(a)(14) and 1413(a)(3) of Title 20 of the United States Code.

(14) Performance goals and indicators.

(15) Participation in state and districtwide assessments, including assessments described under Section 1111 of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.) and

alternate assessments in accordance with Sections 56058 and 56070 and Section 1412(a)(16) of Title 20 of the United States Code, and reports relating to assessments.

(16) Supplementation of state, local, and other federal funds, including nonsupplantation of funds.

(17) Maintenance of financial effort.

(18) Opportunities for public participation prior to adoption of policies and procedures.

(19) Suspension and expulsion rates.

(20) Access to instructional materials by blind individuals with exceptional needs and others with print disabilities in accordance with Section 1412(a)(23) of Title 20 of the United States Code.

(21) Overidentification and disproportionate representation by race and ethnicity of children as individuals with exceptional needs, including children with disabilities with a particular impairment described in Section 1401 of Title 20 of the United States Code and in accordance with Section 1412(a)(24) of Title 20 of the United States Code.

(22) Prohibition of mandatory medication use pursuant to Section 56040.5 and in accordance with Section 1412(a)(25) of Title 20 of the United States Code.

(b) Each local plan submitted to the Superintendent under this part shall also contain all the following:

(1) An annual budget plan that shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:

(A) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).

(B) Administrative costs of the plan.

(C) Special education services to pupils with severe disabilities and low incidence disabilities.

(D) Special education services to pupils with nonsevere disabilities.

(E) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.

(F) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(G) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(2) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each district in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and with Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the physical location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by districts, community schools operated by county offices, and juvenile court schools, regardless of whether the district or county office is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(3) A description of programs for early childhood special education from birth through five years of age.

(4) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a).

(5) A description of a dispute resolution process, including mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the plan.

(6) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the Superintendent.

(7) A description of the process being utilized to meet the requirements of Section 56303.

(c) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring that all requirements of each pupil's individualized education program are being met. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

(d) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

SEC. 33. Section 56240 of the Education Code is amended to read:

56240. Staff development programs shall be provided for regular and special education teachers, administrators, certificated and classified employees, volunteers, community advisory committee members and, as appropriate, members of the district and county governing boards. The programs shall be coordinated with other staff development programs in the special education local plan area, including school level staff development programs authorized by state and federal law.

SEC. 34. Section 56243 of the Education Code is amended to read:

56243. It is the intent of the Legislature, pursuant to this article, that a local educational agency provide regular classroom teachers serving individuals with exceptional needs appropriate training each year relating to the needs of those individuals.

SEC. 35. Section 56245 of the Education Code is amended to read:

56245. The Legislature encourages the inclusion, in local in-service training programs for regular education teachers and special education teachers in local educational agencies, of a component on the recognition of, and teaching strategies for, specific learning disabilities, including dyslexia and related disorders.

SEC. 36. Section 56300 of the Education Code is amended to read:

56300. A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth through 21 years of age, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office.

SEC. 37. Section 56302 of the Education Code is amended to read:

56302. A local educational agency shall provide for the identification and assessment of the exceptional needs of an individual, and the planning of an instructional program to meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

SEC. 38. Section 56320 of the Education Code is amended to read:

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all of the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional

needs are selected and administered so as not to be racially, culturally, or sexually discriminatory. Pursuant to Section 1412(a)(6)(B) of Title 20 of the United States Code, the materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.

(b) Tests and other assessment materials meet all of the following requirements:

(1) Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer as required by Section 1414(b)(3)(A)(ii) of Title 20 of the United States Code.

(2) Are used for purposes for which the assessments or measures are valid and reliable.

(3) Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) Pursuant to Section 1414(b)(2)(B) of Title 20 of the United States Code, no single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.

(f) The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with Sections 300.304 and 300.305 of Title 34 of the Code of Federal Regulations.

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

(h) As part of an initial assessment, if appropriate, and as part of any reassessment under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and this part, the group that includes members of the individualized education program team, and other qualified professionals, as appropriate, shall follow the procedures specified in Section 1414(c) of Title 20 of the United States Code. The group may conduct its review without a meeting.

(i) Each local educational agency shall ensure that assessments of individuals with exceptional needs who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools, as necessary and as expeditiously as possible, in accordance with Section 1414(b)(3)(D) of Title 20 of the United States Code, to ensure prompt completion of the full assessment.

SEC. 39. Section 56321.5 of the Education Code is amended to read:

56321.5. The copy of the notice of parent rights shall include the right to electronically record the proceedings of individualized education program team meetings as specified in subdivision (g) of Section 56341.1.

SEC. 40. Section 56322 of the Education Code is amended to read:

56322. The assessment shall be conducted by persons competent to perform the assessment, as determined by the local educational agency.

SEC. 41. Section 56328 of the Education Code is amended to read:

56328. Notwithstanding the provisions of this chapter, a special education local plan area may utilize a school site level and a regional level service, as provided for under Section 56336.2 as it read immediately prior to the operative date of this section, to provide the services required by this chapter.

SEC. 42. Section 56330 of the Education Code is amended to read:

56330. A local educational agency shall follow the procedures in Section 300.306(c) of Title 34 of the Code of Federal Regulations when interpreting assessment data for the purpose of determining if a child is an individual with exceptional needs under Section 56026.

SEC. 43. Section 56331 of the Education Code is amended to read:

56331. (a) A pupil who is suspected of needing mental health services may be referred to a community mental health service in accordance with Section 7576 of the Government Code.

(b) Prior to referring a pupil to a county mental health agency for services, the local educational agency shall follow the procedures set forth in Section 56320 and conduct an assessment in accordance with Sections 300.301 to 300.306, inclusive, of Title 34 of the Code of Federal Regulations. If an individual with exceptional needs is identified as potentially requiring mental health services, the local educational agency shall request the participation of the county mental health agency in the individualized education program. A local educational agency shall provide any specially-designed instruction required by an individualized education program, including related services such as counseling services, parent counseling and training, psychological services, or social work services in schools as defined in Section 300.34 of Title 34 of the Code of Federal Regulations. If the individualized education program of an individual with exceptional needs includes a functional behavioral assessment and behavior intervention plan, in accordance with Section 300.530 of Title 34 of the Code of Federal Regulations, the local educational agency shall provide documentation upon referral to a county mental health agency. Local educational agencies shall provide related services, by qualified personnel, unless the individualized education program team designates a more appropriate agency for the provision of services. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service agency in determining the need for mental health services and the level of services needed.

SEC. 43.5. Section 56337 of the Education Code is amended to read:

56337. (a) A specific learning disability, as defined in Section 1401(30) of Title 20 of the United States Code, means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or perform mathematical calculations. The term "specific learning disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(b) Notwithstanding any other provision of law and pursuant to Section 1414(b)(6) of Title 20 of the United States Code, in determining whether a pupil has a specific learning disability as defined in subdivision (a), a local educational agency is not required to take into consideration whether a pupil has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression,

basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(c) In determining whether a pupil has a specific learning disability, a local educational agency may use a process that determines if the pupil responds to scientific, research-based intervention as a part of the assessment procedures described in Section 1414(b)(2) and (3) of Title 20 of the United States Code and covered in Sections 300.307 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 44. Section 56340 of the Education Code is amended to read:

56340. A local educational agency shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs in accordance with Section 300.323(c) of Title 34 of the Code of Federal Regulations.

SEC. 45. Section 56341.1 of the Education Code is amended to read:

56341.1. (a) When developing each pupil's individualized education program, the individualized education program team shall consider the following:

(1) The strengths of the pupil.

(2) The concerns of the parents or guardians for enhancing the education of the pupil.

(3) The results of the initial assessment or most recent assessment of the pupil.

(4) The academic, developmental, and functional needs of the child.

(b) The individualized education program team shall do the following:

(1) In the case of a pupil whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

(2) In the case of a pupil with limited-English proficiency, consider the language needs of the pupil as those needs relate to the pupil's individualized education program.

(3) In the case of a pupil who is blind or visually impaired, provide for instruction in braille, and the use of braille, unless the individualized education program team determines, after an assessment of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the pupil's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the pupil.

(4) Consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including

opportunities for direct instruction in the pupil's language and communication mode.

(5) Consider whether the pupil requires assistive technology devices and services as defined in Section 1401(1) and (2) of Title 20 of the United States Code.

(c) If, in considering the special factors described in subdivisions (a) and (b), the individualized education program team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive a free appropriate public education, the individualized education program team shall include a statement to that effect in the pupil's individualized education program.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revise the individualized education program, as appropriate, to address among other matters the following:

(1) Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.

(2) The results of any reassessment conducted pursuant to Section 56381.

(3) Information about the pupil provided to, or by, the parents or guardians, as described in subdivision (b) of Section 56381.

(4) The pupil's anticipated needs.

(5) Any other relevant matter.

(e) A regular education teacher of the pupil, who is a member of the individualized education program team, shall participate in the review and revision of the individualized education program of the pupil consistent with Section 1414(d)(1)(C) of Title 20 of the United States Code.

(f) The parent or guardian shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings, relating to eligibility for special education and related services, recommendations, and program planning.

(g) (1) Notwithstanding Section 632 of the Penal Code, the parent or guardian, or local educational agency shall have the right to record electronically the proceedings of individualized education program team meetings on an audiotape recorder. The parent or guardian, or local educational agency shall notify the members of the individualized education program team of their intent to record a meeting at least 24 hours prior to the meeting. If the local educational agency initiates the notice of intent to audiotape record a meeting and the parent or guardian

objects or refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder.

(2) The Legislature hereby finds as follows:

(A) Under federal law, audiotape recordings made by a local educational agency are subject to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and are subject to the confidentiality requirements of the regulations under Sections 300.610 to 300.626, inclusive, of Part 34 of the Code of Federal Regulations.

(B) Parents or guardians have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to do all of the following:

(i) Inspect and review the tape recordings.

(ii) Request that the tape recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs.

(iii) Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the individual's rights of privacy or other rights.

(h) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs.

SEC. 46. Section 56342 of the Education Code is amended to read:

56342. (a) The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56195.8, and make program placement recommendations.

(b) In determining the program placement of an individual with exceptional needs, a local educational agency shall ensure that the placement decisions and the child's placement are made in accordance with Sections 300.114 to 300.118, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 47. Section 56342.1 of the Education Code is amended to read:

56342.1. Before a local educational agency places an individual with exceptional needs in, or refers an individual to, a nonpublic, nonsectarian school pursuant to Section 56365, the district, special education local plan area, or county office shall initiate and conduct a meeting to develop an individualized education program in accordance with Sections 56341.1 and 56345 and in accordance with Section 300.325(a)(1) and (2) of Title 34 of the Code of Federal Regulations.

SEC. 48. Section 56342.5 of the Education Code is amended to read:

56342.5. A local educational agency shall ensure that the parent of each individual with exceptional needs is a member of any group that makes decisions on the educational placement of the individual with exceptional needs.

SEC. 49. Section 56343.5 of the Education Code is amended to read:

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written request. If a parent makes an oral request, the local educational agency shall notify the parent of the need for a written request and the procedure for filing a written request.

SEC. 50. Section 56345.5 of the Education Code is amended to read:

56345.5. Except as prescribed in subdivision (b) of Section 56324, nothing in this part shall be construed to authorize local educational agencies to prescribe health care services.

SEC. 51. Section 56347 of the Education Code is amended to read:

56347. A local educational agency, prior to the placement of the individual with exceptional needs, shall ensure that the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs have access to the pupil's individualized education program, shall be knowledgeable of the content of the individualized education program, and shall be informed of his or her specific responsibilities related to implementing a pupil's individualized education program and the specific accommodations, modifications and supports that shall be provided for the pupil in accordance with the individualized education program, pursuant to Section 300.323(d) of Title 34 of the Code of Federal Regulations. A copy of each individualized education program shall be maintained at each schoolsite where the pupil is enrolled. Service providers from other agencies who provide instruction or a related service to the individual off the schoolsite shall be provided a copy of the individualized education program. All individualized education programs shall be maintained in accordance with state and federal pupil record confidentiality laws.

SEC. 52. Section 56351 of the Education Code is amended to read:

56351. Local educational agencies shall provide opportunities for braille instruction for pupils who, due to a prognosis of visual deterioration, may be expected to have a need for braille as a reading medium.

SEC. 53. Section 56351.5 of the Education Code is amended to read:

56351.5. (a) (1) A local educational agency may reinforce braille instruction using a braille instructional aide who meets the criteria set forth in paragraph (2) under the supervision of a teacher who holds an appropriate credential, as determined by the Commission on Teacher Credentialing, to teach pupils who are functionally blind or visually impaired. This instruction shall be in accordance with the pupil's individualized education program.

(2) For purposes of this section, a braille instructional aide shall demonstrate to the supervising teacher that he or she is fluent in reading and writing grade 2 braille and possesses basic knowledge of the rules of braille construction.

(b) A local educational agency that employs a braille instructional aide shall provide the aide with information regarding teaching credential programs, including the Pre-Internship Teaching Program (Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25), the Wildman-Keeley-Solis Exemplary Teacher Training Act of 1997 (Article 12 (commencing with Section 44390) of Chapter 2 of Part 25), and the Teacher Education Internship Act of 1967 (Article 3 (commencing with Section 44450) of Chapter 3 of Part 25).

SEC. 54. Section 56352 of the Education Code is amended to read:

56352. (a) A functional vision assessment conducted pursuant to Section 56320 shall be used as one criterion in determining the appropriate reading medium or media for the pupil.

(b) An assessment of braille skills shall be required for functionally blind pupils who have the ability to read in accordance with guidelines established pursuant to Section 56136. A local educational agency may provide pupils with low vision with the opportunity to receive assessments to determine the appropriate reading medium or media, including braille instruction, for the pupils.

(c) The determination, by a pupil's individualized education program team, of the most appropriate medium or media, including braille, for functionally blind pupils who have the ability to read shall use as one criterion the assessment provided for pursuant to subdivision (b) and shall be in accordance with guidelines established pursuant to Section 56136.

(d) Except as provided in subdivision (b) of Section 56351.5, braille instruction shall be provided by a teacher who holds an appropriate credential, as determined by the Commission on Teacher Credentialing, to teach pupils who are functionally blind or visually impaired.

(e) Each visually impaired pupil shall be provided with the opportunity to receive an assessment to determine the appropriate reading medium or media, including braille instruction, if appropriate, for that pupil.

SEC. 55. Section 56361.5 of the Education Code is amended to read:

56361.5. (a) In addition to the continuum of program options listed in Section 56361, a local educational agency may contract with a hospital to provide designated instruction and services, as defined in subdivision (b) of Section 56363, required by the individual with exceptional needs, as specified in the individualized education program. However, a local educational agency shall not contract with a sectarian hospital for instructional services. A local educational agency shall contract with a hospital for designated instruction and services required by the individual with exceptional needs only when no appropriate public education program is available.

For purposes of this section, "hospital" means a health care facility licensed by the State Department of Health Care Services.

(b) Contracts with hospitals pursuant to subdivision (a) shall be subject to the procedures prescribed in Sections 56365, 56366, and 56366.5.

SEC. 56. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing, and who

has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

(d) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without approval by the pupil's individualized education program team.

(f) At least 80 percent of the resource specialists within a local plan shall be provided with an instructional aide.

SEC. 57. Section 56363.1 of the Education Code is amended to read:

56363.1. A local educational agency is not required to purchase medical equipment for an individual pupil. However, the local educational agency is responsible for providing other specialized equipment for use at school that is needed to implement the individualized education program. For purposes of this section, "medical equipment" does not include an assistive technology device, as defined in Section 1401(1) of Title 20 of the United States Code.

SEC. 58. Section 56363.3 of the Education Code is amended to read:

56363.3. The average caseload for language, speech, and hearing specialists in special education local plan areas shall not exceed 55 cases, unless the local plan specifies a higher average caseload and the reasons for the greater average caseload.

SEC. 59. Section 56363.5 of the Education Code is amended to read:

56363.5. Local educational agencies may seek, either directly or through the pupil's parents or guardians, reimbursement from insurance companies to cover the costs of related services, in accordance with Section 300.154 (d) to (h), inclusive, of the Code of Federal Regulations.

SEC. 60. Section 56365 of the Education Code is amended to read:

56365. (a) Services provided by nonpublic, nonsectarian schools, as defined pursuant to Section 56034, and nonpublic, nonsectarian agencies, as defined pursuant to Section 56035, shall be made available. These services shall be provided pursuant to Section 56366, and in accordance with Section 300.146 of Title 34 of the Code of Federal Regulations, under contract with the local educational agency to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for

all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The local educational agency shall be eligible to receive allowances under Articles 3 (commencing with Section 56836.165) and 4 (commencing with Section 56836.20) of Chapter 7.2 for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state-operated or state-supported programs for individuals with exceptional needs (P.L. 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state-supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a local educational agency. In order to participate in the federal program, the state shall find that participation will not result in any additional expenditures from the General Fund.

(d) The local educational agency shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, the local educational agency shall document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

(f) If a local educational agency places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the Superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The Superintendent shall submit a report to the board on all placements made outside of this state.

(g) If a local educational agency decides to place a pupil with a nonpublic, nonsectarian school or agency outside of this state, that local educational agency shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

(h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside

of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(i) A nonpublic, nonsectarian school or agency that is located outside of this state is eligible for certification pursuant to Section 56366.1 only if a pupil is enrolled in a program operated by that school or agency pursuant to the recommendation of an individualized education program team in California, and if that pupil's parents or guardians reside in California.

(j) In accordance with Section 300.147(b) and (c) of Title 34 of the Code of Federal Regulations, the department shall disseminate copies of applicable standards to each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a local educational agency has referred or placed an individual with exceptional needs and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

SEC. 61. Section 56366.1 of the Education Code is amended to read:

56366.1. (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department and include the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) An annual operating budget.

(5) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.

(b) (1) The applicant shall provide the special education local plan area in which the applicant is located with the written notification of its intent to seek certification or renewal of its certification. The applicant

shall submit on a form, developed by the department, a signed verification by local educational agency representatives that they have been notified of the intent to certify or renew certification. The verification shall include a statement that representatives of the local educational agency for the area in which the applicant is located have had the opportunity to review the application at least 60 calendar days prior to submission of an initial application to the Superintendent, or at least 30 calendar days prior to submission of a renewal application to the Superintendent. The signed verification shall provide assurances that local educational agency representatives have had the opportunity to provide input on all required components of the application.

(2) If the applicant has not received a response from the local educational agency 60 calendar days from the date of the return receipt for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent. A copy of the return receipt shall be included with the application as verification of notification efforts to the local educational agency.

(3) The department shall mail renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days prior to the date their current certification expires.

(c) If the applicant operates a facility or program on more than one site, each site shall be certified.

(d) If the applicant is part of a larger program or facility on the same site, the Superintendent shall consider the effect of the total program on the applicant. A copy of the policies and standards for the nonpublic, nonsectarian school or agency and the larger program shall be available to the Superintendent.

(e) Prior to certification, the Superintendent shall conduct an onsite review of the facility and program for which the applicant seeks certification. The Superintendent may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The Superintendent shall conduct an additional onsite review of the facility and program within three years of the effective date of the certification, unless the Superintendent conditionally certifies the school or agency or unless the Superintendent receives a formal complaint against the school or agency. In the latter two cases, the Superintendent shall conduct an onsite review at least annually.

(f) The Superintendent shall make a determination on an application within 120 days of receipt of the application and shall certify, conditionally certify, or deny certification to the applicant. If the

Superintendent fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31, of the current school year. If certification is denied, the Superintendent shall provide reasons for the denial. The Superintendent may certify the school or agency for a period of not longer than one year.

(g) Certification becomes effective on the date the nonpublic, nonsectarian school or agency meets all the application requirements and is approved by the Superintendent. Certification may be retroactive if the school or agency met all the requirements of this section on the date the retroactive certification is effective. Certification expires on December 31 of the terminating year.

(h) The Superintendent annually shall review the certification of each nonpublic, nonsectarian school and agency. For this purpose, a certified school or agency annually shall update its application between August 1 and October 31, unless the board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.

(i) (1) The Superintendent shall conduct an investigation of a nonpublic, nonsectarian school or agency onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The Superintendent shall document the concern and submit it to the nonpublic, nonsectarian school or agency at the time of the onsite investigation. The Superintendent shall require a written response to any noncompliance or deficiency found.

(2) With respect to a nonpublic, nonsectarian school, the Superintendent shall conduct an investigation, which may include an unannounced onsite visit, if the Superintendent receives evidence of a significant deficiency in the quality of educational services provided, a violation of Section 56366.9, or noncompliance with the policies expressed by subdivision (b) of Section 1501 of the Health and Safety Code by the nonpublic, nonsectarian school. The Superintendent shall document the complaint and the results of the investigation and shall provide copies of the documentation to the complainant, the nonpublic, nonsectarian school, and the contracting local educational agency.

(3) Violations or noncompliance documented pursuant to paragraph (1) or (2) shall be reflected in the status of the certification of the school, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school. The department shall retain for a period of 10 years, all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

(1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.

(2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.

(3) The Superintendent shall conduct a followup visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other provision of law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.

(2) The notification shall occur no later than the December 1 prior to the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

(A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.

(B) The location of the proposed program or facility.

(C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other nonspecial education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.

(D) The reason for the proposed change in services.

(E) The number of staff who will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered.

(3) In addition to the requirements in subdivisions (a) to (f), inclusive, the Superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

(A) A complete statement of the information required as part of the notice under paragraph (1).

(B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other provision of law, the certification becomes effective no earlier than July 1 if the school or agency provided the notification required pursuant to paragraph (1).

(*l*) (1) Commencing July 1, 2006, notwithstanding any other provision of law, the Superintendent shall not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children's institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entity-wide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, the term "licensed children's institution" has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1-5 pupils	$ 300
(2) 6-10 pupils	500
(3) 11-24 pupils	1,000
(4) 25-75 pupils	1,500
(5) 76 pupils and over	2,000

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) The board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 62. Section 56366.2 of the Education Code is amended to read:

56366.2. (a) A local educational agency, nonpublic, nonsectarian school, or nonpublic, nonsectarian agency may petition the Superintendent to waive one or more of the requirements under Sections 56365, 56366, 56366.3, and 56366.6. The petition shall state the reasons for the waiver request, and shall include the following:

(1) Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific pupil's individualized education program and the pupil's current placement.

(2) The period of time that the waiver will be effective during any one school year.

(3) Documentation and assurance that the waiver does not abrogate any right provided to individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a local educational agency with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the

federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and federal regulations relating to those acts.

(b) No waiver shall be granted for reimbursement of those costs prohibited under Article 4 (commencing with Section 56836.20) of Chapter 7.2 of Part 30 or for the certification requirements pursuant to Section 56366.1 unless approved by the board pursuant to Section 56101.

(c) In submitting the annual report on waivers granted under Section 56101 and this section to the board, the Superintendent shall specify information related to the provision of special education and related services to individuals with exceptional needs through contracts with nonpublic, nonsectarian schools and agencies located in the state, nonpublic, nonsectarian school and agency placements in facilities located out of state, and the specific section waived pursuant to this section.

SEC. 63. Section 56366.3 of the Education Code is amended to read:

56366.3. (a) No contract for special education and related services provided by a nonpublic, nonsectarian agency shall be reimbursed by the state pursuant to Article 4 (commencing with Section 56836.20) of Chapter 7.2 and Section 56836.16 if the contract covers special education and related services, administration, or supervision by an individual who is or was an employee of a contracting local educational agency within the last 365 days. Former contracting agency personnel may be employed by a nonpublic, nonsectarian agency if the personnel were involuntarily terminated or laid off as part of necessary staff reductions from the local educational agency.

(b) This section does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to 10 months of the school year by the local educational agency.

SEC. 64. Section 56366.8 of the Education Code is amended to read:

56366.8. The department, as a part of its certification process and complaint investigation process for nonpublic, nonsectarian schools or agencies shall do all of the following:

(a) Provide advance notice of certification reviews to the contracting local educational agency, and to the nonpublic, nonsectarian school or agency under certification review.

(b) Provide advance notice of complaint investigations to the contracting local educational agency.

(c) Include the contracting local educational agency in certification reviews and complaint investigations.

(d) Transmit final reports of certification reviews and complaint investigations to local educational agencies, placement agencies, and

other public educational agencies that contract with the nonpublic, nonsectarian school or agency.

SEC. 65. Section 56369 of the Education Code is amended to read:

56369. A local educational agency may contract with another public agency to provide special education or related services to an individual with exceptional needs.

SEC. 66. Section 56383 of the Education Code is amended to read:

56383. Pursuant to Section 300.325(b) of Title 34 of the Code of Federal Regulations, after an individual with exceptional needs is placed in a nonpublic, nonsectarian school under Section 56366, any meetings to review and revise the pupil's individualized education program may be conducted by the nonpublic, nonsectarian school at the discretion of the local educational agency. However, even if a nonpublic, nonsectarian school implements a child's individualized education program, responsibility for compliance with this part and with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations remains with the local educational agency pursuant to Section 300.325(c) of Title 34 of the Code of Federal Regulations.

SEC. 67. Section 56425 of the Education Code is amended to read:

56425. As a condition of receiving state aid pursuant to this part, a local educational agency that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate early education programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a local educational agency offered those programs in the 1980–81 fiscal year but in a subsequent year transfers the programs to another local educational agency, the local educational agency shall be exempt from the provisions of this section in any year when the programs are offered by the local educational agency to which they were transferred.

A local educational agency that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Section 56432.

This section shall become operative on July 1, 1998.

SEC. 68. Section 56426.25 of the Education Code is amended to read:

56426.25. The maximum service levels set forth in Sections 56426.1 and 56426.2 apply only for purposes of the allocation of funds for early education programs pursuant to Sections 56427, 56428, and 56432, and may be exceeded by a local educational agency, in accordance with the infants' individualized family service plan, provided that no change in the level of entitlement to state funding under this part thereby results.

This section shall become operative on July 1, 1998.

SEC. 69. Section 56426.6 of the Education Code is amended to read:

56426.6. (a) Early education services shall be provided by the local educational agency through a transdisciplinary team consisting of a group of professionals from various disciplines, agencies, and parents who shall share their expertise and services to provide appropriate services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the local educational agency to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

(1) Early childhood special education.
(2) Speech and language therapy.
(3) Nursing, with a skill level not less than that of a registered nurse.
(4) Social work, psychology, or mental health.
(5) Occupational therapy.
(6) Physical therapy.
(7) Audiology.
(8) Parent to parent support.

(d) A person who is authorized by the local educational agency to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

SEC. 70. Section 56426.9 of the Education Code is amended to read:

56426.9. (a) Pursuant to Section 1437(a)(8) of Title 20 of the United States Code, a local educational agency shall ensure that each child participating in early childhood special education services pursuant to this chapter, and who will participate in preschool programs pursuant to Chapter 4.45 (commencing with Section 56440), experiences a smooth and effective transition to those preschool programs.

(b) Pursuant to Sections 300.101(b) and 300.323(b) of Title 34 of the Code of Federal Regulations, a local educational agency, by the third birthday of a child described in subdivision (a), shall ensure that an individualized education program or an individualized family service plan has been developed and is being implemented for the child consistent with a free appropriate public education for children beginning at three years of age.

(c) In accordance with Section 1437(a)(8) of Title 20 of the United States Code, a local educational agency shall participate in transition planning conferences arranged by the designated lead agency.

(d) Any child who becomes three years of age while participating in early childhood special education services under this chapter may continue until June 30 of the current program year, if the individualized education program team determines that the preschooler is eligible pursuant to Section 56441.11, develops an individualized education program, and determines that the early childhood special education services remain appropriate. No later than June 30 of that year, the individualized education program team shall meet to review the preschooler's progress and revise the individualized education program accordingly. The individualized education program team meeting shall be conducted by the local educational agency responsible for the provision of preschool special education services. Representatives of the early childhood special education program shall be invited to that meeting. If a child's third birthday occurs during the summer, the child's individualized education program team shall determine the date when services under the individualized education program will begin, pursuant to Section 300.101(b) of Title 34 of the Code of Federal Regulations.

SEC. 71. Section 56431 of the Education Code is amended to read:

56431. The Superintendent shall develop procedures and criteria to enable a local educational agency to contract with private nonprofit preschools or child development centers to provide special education and related services to infant and preschool age individuals with exceptional needs. The criteria shall include minimum standards that the private, nonprofit preschool or center shall be required to meet.

SEC. 72. Section 56440 of the Education Code is amended to read:

56440. (a) Each special education local plan area shall submit a plan to the Superintendent by September 1, 1987, for providing special education and services to individuals with exceptional needs, as defined by the board, who are between the ages of three and five years, inclusive, and do not require intensive special education and services, but who would be eligible for special education and services under Title II of the Education of the Handicapped Act Amendments of 1986, Public Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413, and 1419).

(b) The Superintendent shall provide for a five-year phase-in of the individuals with exceptional needs qualifying for special education and services under Public Law 99-457 who do not require intensive special education and services, through an application process to be developed by the Superintendent.

(c) All individuals with exceptional needs between the ages of three and five years, inclusive, identified in subdivision (a) shall be served by the local educational agencies within each special education local plan area by June 30, 1992, to the extent required under federal law and pursuant to the local plan and application approved by the Superintendent.

(d) Individuals with exceptional needs between the ages of three and five years, inclusive, who are identified by the local educational agency as requiring special education and services, as defined by the board, shall be eligible for special education and services pursuant to this part and shall not be subject to any phase-in plan.

(e) In special education local plan areas where individuals with exceptional needs between the ages of three and five, inclusive, who do not require intensive special education and services are expected to have an increased demand on school facilities as a result of projected growth pursuant to this chapter, the special education local plan area director shall submit a written report on the impacted local educational agencies to the State Allocation Board by December 1, 1987. The State Allocation Board shall assess the situation and explore ways of resolving the school facilities impaction situation.

(f) The Superintendent shall provide technical assistance to local educational agencies in order to help identify suitable alternative instructional settings to alleviate the school facilities impaction situation. Alternative instructional settings may include, but are not limited to, state preschool programs and the child's home. Nothing in this chapter shall cause the displacement of children currently enrolled in these settings.

(g) Special education facilities operated by local educational agencies serving children under this chapter and Chapter 4.4 (commencing with Section 56425) shall meet all applicable standards relating to fire, health, sanitation, and building safety, but are not subject to Chapter 3.4 (commencing with Section 1596.70), 3.5 (commencing with Section 1596.90), or 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code.

(h) This chapter applies to all individuals with exceptional needs between the ages of three and five years, inclusive.

SEC. 73. Section 56441.11 of the Education Code is amended to read:

56441.11. (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.

(b) A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria:

(1) Is identified as having one of the following disabling conditions, as defined in Section 300.8 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):

(A) Autism.

(B) Deaf-blindness.

(C) Deafness.

(D) Hearing impairment.

(E) Mental retardation.

(F) Multiple disabilities.

(G) Orthopedic impairment.

(H) Other health impairment.

(I) Serious emotional disturbance.

(J) Specific learning disability.

(K) Speech or language impairment in one or more of voice, fluency, language and articulation.

(L) Traumatic brain injury.

(M) Visual impairment.

(N) Established medical disability.

(2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.

(3) Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an individualized education program team pursuant to Section 56431.

(4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.

(c) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:

(1) Unfamiliarity with the English language.

(2) Temporary physical disabilities.

(3) Social maladjustment.

(4) Environmental, cultural, or economic factors.

(d) For purposes of this section, “established medical disability” is defined as a disabling medical condition or congenital syndrome that

the individualized education program team determines has a high predictability of requiring special education and services.

(e) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, including scales, instruments, observations, and interviews, shall be used as specified in the assessment plan.

(f) In order to implement the eligibility criteria in subdivision (b), the Superintendent shall:

(1) Provide for training in developmentally appropriate practices, alternative assessment, and placement options.

(2) Provide a research-based review for developmentally appropriate application criteria for young children.

(3) Provide program monitoring for appropriate use of the eligibility criteria.

(g) If legislation is enacted mandating early intervention services to infants and toddlers with disabilities pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Superintendent shall reconsider the eligibility criteria for preschool children, between the ages of three and five years, and recommend appropriate changes to the Legislature.

SEC. 74. Section 56443 of the Education Code is amended to read:

56443. (a) The department shall amend its interagency agreement with the Administration for Children, Youth, and Families, Region IX, Head Start, United States Department of Health and Human Services, to permit a local educational agency to contract with a Head Start program for special education and services for individuals with exceptional needs between the ages of three and five years pursuant to this part.

(b) Apportionments allocated to Head Start programs for special education and services to individuals with exceptional needs between the ages of three and five years shall supplement and not supplant funds for which the Head Start programs are eligible, or are already receiving, from other funding sources.

SEC. 75. Section 56454 of the Education Code is amended to read:

56454. In order to provide local educational agencies with maximum flexibility to secure and utilize all federal funds available to enable those entities to meet the career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to those agencies for the provision of that education, the Superintendent shall do all of the following:

(a) Provide necessary technical assistance to local educational agencies.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

SEC. 76. Section 56456 of the Education Code is amended to read:

56456. It is the intent of the Legislature that local educational agencies may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

SEC. 77. Section 56473 of the Education Code is amended to read:

56473. Project workability shall be funded pursuant to Item 6100-161-0001 of Section 2.00 of the annual Budget Act.

SEC. 78. Section 56475 of the Education Code is amended to read:

56475. (a) The Superintendent and the directors of the State Department of Health Care Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Employment Development Department shall develop written interagency agreements or adopt joint regulations that include responsibilities, in accordance with Section 1412(a)(12) of Title 20 of the United States Code and Section 300.154 of Title 34 of the Code of Federal Regulations, for the provision of special education and related services to individuals with exceptional needs in the State of California.

(b) The Superintendent shall develop interagency agreements with other state and local public agencies, as deemed necessary by the Superintendent, to carry out the provisions of state and federal law.

(c) (1) Each interagency agreement shall be submitted by the Superintendent to each legislative fiscal committee, education committee, and policy committee, responsible for legislation relating to those individuals with exceptional needs that will be affected by the agreement if it is effective.

(2) An interagency agreement shall not be effective sooner than 30 days after it has been submitted to each of the legislative committees specified in paragraph (1).

SEC. 79. Section 56476 of the Education Code is amended to read:

56476. The Governor or designee of the Governor, in accordance with Section 1412(a)(12) of Title 20 of the United States Code and Section 300.154 of Title 34 of the Code of Federal Regulations, shall ensure that each agency under the Governor's jurisdiction enters into an

interagency agreement with the superintendent to ensure that all services that are needed to ensure a free appropriate public education are provided.

SEC. 80. Section 56500 of the Education Code is amended to read:

56500. As used in this chapter, "public agency" is identical to the definition of that term in Section 56028.5 and Section 300.33 of Title 34 of the Code of Federal Regulations.

SEC. 81. Section 56500.5 of the Education Code is amended to read:

56500.5. As provided in Section 300.102(a)(3)(iii) of Title 34 of the Code of Federal Regulations, parents or guardians of an individual with exceptional needs shall be given reasonable written prior notice, in accordance with Section 56500.4, that their child will be graduating from high school with a regular high school diploma because graduation from high school with a regular diploma constitutes a change in placement.

SEC. 82. Section 56500.6 of the Education Code is amended to read:

56500.6. Due process and state complaint procedures for children enrolled in private schools by their parents pursuant to Sections 56170 to 56174.5, inclusive, shall be in accordance with Section 300.140 of Title 34 of the Code of Federal Regulations.

SEC. 83. Section 56501 of the Education Code is amended to read:

56501. (a) The due process hearing procedures prescribed by this chapter extend to the parent or guardian, as defined in Section 56028, a pupil who has been emancipated, and a pupil who is a ward or dependent of the court or for whom no parent or guardian can be identified or located when the hearing officer determines that either the local educational agency has failed to appoint a surrogate parent as required by Section 7579.5 of the Government Code or the surrogate parent appointed by the local educational agency does not meet the criteria set forth in subdivision (f) of Section 7579.5 of the Government Code, and the public agency involved in any decisions regarding a pupil. The appointment of a surrogate parent after a hearing has been requested by the pupil shall not be cause for dismissal of the hearing request. The parent or guardian and the public agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances:

(1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education to the child.

(2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education to the child.

(3) The parent or guardian refuses to consent to an assessment of the child.

(4) There is a disagreement between a parent or guardian and a local educational agency regarding the availability of a program appropriate for the child, including the question of financial responsibility, as specified in Section 300.148 of Title 34 of the Code of Federal Regulations.

(b) The due process hearing rights prescribed by this chapter include, but are not limited to, all of the following:

(1) The right to a mediation conference pursuant to Section 56500.3.

(2) The right to request a mediation conference at any point during the hearing process. The mediation process is not to be used to deny or delay a parent's or guardian's right to a due process hearing, or to deny any other rights afforded under this part, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). Notwithstanding subdivision (a) of Section 56500.3, attorneys and advocates are permitted to participate in mediation conferences scheduled after the filing of a request for due process hearing.

(3) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27.

(4) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

(c) In addition to the rights prescribed by subdivision (b), the parent or guardian has the following rights:

(1) The right to have the pupil who is the subject of the state hearing present at the hearing.

(2) The right to open the state hearing to the public.

SEC. 84. Section 56504 of the Education Code is amended to read:

56504. The parent shall have the right and opportunity to examine all school records of his or her child and to receive copies pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally or in writing. The public agency shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program or any hearing pursuant to Section 300.507, 300.121, 300.301, or 300.304 of Title 34 of the Code of Federal Regulations or resolution session pursuant to Section 300.510 of Title 34 of the Code of Federal Regulations and in no case more than five business days after the request is made orally or in writing. The parent shall have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records. If any school record includes information on more than one pupil, the parents of those pupils

have the right to inspect and review only the information relating to their child or to be informed of that specific information. A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency. A public agency may charge no more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies the copy or copies shall be reproduced at no cost.

SEC. 85. Section 56504.5 of the Education Code is amended to read:

56504.5. (a) The department shall enter into an interagency agreement with another state agency or contract with a nonprofit organization or entity to conduct mediation conferences and due process hearings in accordance with Sections 300.506 and 300.511 of Title 34 of the Code of Federal Regulations.

(b) The agency or contractor shall provide hearings and mediations in a manner that is consistent with all applicable federal and state laws and regulations, and any other applicable legal authorities.

(c) The Superintendent shall adopt regulations that establish standards for all of the following components of an interagency agreement or contract entered into pursuant to subdivision (a):

(1) The training and qualifications for mediators and hearing officers.

(2) The availability of translators and translated documents.

(3) Prevention of conflicts of interest for mediators and hearing officers.

(4) The supervision of mediators and hearing officers.

(5) Monitoring, tracking, and management of cases.

(6) The process for conducting mediations and due process hearings.

(7) Communication with parties to mediations and due process hearings.

(8) The establishment of a committee to advise the agency or contractor with regard to conducting mediations and due process hearings.

(9) The contents of a manual to describe the procedures of the mediation and due process hearing.

(d) (1) An agency or contractor shall collect and provide data in standardized formats, which allow the department to manage and report on all mediation and due process activities in the state. An agency or contractor shall propose the manner in which specific data and information will be collected and transmitted electronically and in writing to the department on a quarterly basis. The reports shall contain data to provide the state with information to comply with federal and state regulations for monitoring local programs. An agency or contractor shall identify applicable data to be collected, analyzed, and formatted

including, but not limited to, caseloads, status of cases, and outcomes for mediations and due process hearings.

(2) The agency or contractor shall, on a quarterly basis, provide the department with information that includes, but is not limited to, all of the following:

(A) Formal complaints: (i) number of complaints; (ii) number of complaints with findings; (iii) number of complaints with no findings; (iv) number of complaints not investigated, withdrawn, or no jurisdiction; (v) number of complaints completed or addressed within timelines; and (vi) number of complaints pending.

(B) Mediations: (i) number of mediations not related to hearing requests; (ii) number of mediations related to hearing requests; (iii) number of mediation agreements not related to hearing requests; (iv) number of mediation agreements related to hearing requests; and (v) number of mediations pending.

(C) Due process hearings: (i) number of hearing requests; (ii) number of hearings held; (iii) number of decisions issued after timelines and extension expired; (iv) number of hearings pending; and (v) number of expedited hearings.

(3) The agency or contractor shall submit hard copies of hearing decision reports to the department and shall administer and upload all redacted reports on a quarterly basis to the hearing decision database of the department. The agency or contractor shall have the ability to provide the department with the costs of hearings and mediations on both an aggregate and individual basis.

SEC. 86. Section 56506 of the Education Code is amended to read:

56506. In addition to the due process hearing rights enumerated in subdivision (b) of Section 56501, the following due process rights extend to the pupil and the parent:

(a) Written notice to the parent of his or her rights in language easily understood by the general public and in the native language of the parent, as defined in Section 300.29 of Title 34 of the Code of Federal Regulations, or other mode of communication used by the parent, unless to do so is clearly not feasible. The written notice of rights shall include, but not be limited to, those prescribed by Section 56341.

(b) The right to initiate a referral of a child for special education services pursuant to Section 56303.

(c) The right to obtain an independent educational assessment pursuant to subdivision (b) or (c) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted, unless the public agency prevails in a due process hearing relating to the assessment. In accordance with Section 300.300(c)(2) of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the pupil's parent has failed to respond.

(f) Written parental consent pursuant to Section 56346 shall be obtained before the pupil is placed in a special education program.

(g) A parent of an individual with exceptional needs may elect to receive notices required under this chapter by an electronic mail communication, if the local educational agency makes that option available, in accordance with Section 1415(n) of Title 20 of the United States Code.

SEC. 87. Section 56507 of the Education Code is amended to read:

56507. (a) If either party to a due process hearing intends to be represented by an attorney in the state hearing, notice of that intent shall be given to the other party at least 10 days prior to the hearing. The failure to provide that notice shall constitute good cause for a continuance.

(b) (1) An award of reasonable attorney's fees to the prevailing parent, guardian, or pupil, as the case may be, may only be made either with the agreement of the parties following the conclusion of the administrative hearing process or by a court of competent jurisdiction pursuant to Section 1415(i)(3) of Title 20 of the United States Code.

(2) In accordance with Section 1415(i)(3) of Title 20 of the United States Code, the court, in its discretion, may award reasonable attorney's fees as part of the costs to a prevailing party who is a state educational agency or local educational agency in the following circumstances:

(A) Against the attorney of a parent who files a due process hearing request or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation.

(B) Against the attorney of a parent, or against the parent, if the parent's due process hearing request or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(c) Public agencies shall not use federal funds distributed under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other federal special education funds, for the agency's own legal counsel or other advocacy costs, that may include,

but are not limited to, a private attorney or employee of an attorney, legal paraprofessional, or other paid advocate, related to a due process hearing or the appeal of a hearing decision to the courts. Funds shall not be used to reimburse parents who prevail and are awarded attorney's fees, pursuant to subdivision (b), as part of the judgment. Nothing in this subdivision shall preclude public agencies from using these funds for attorney services related to the establishment of policy and programs, or responsibilities, under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the program administration of these programs. This subdivision does not apply to attorneys and others hired under contract to conduct administrative hearings pursuant to subdivision (a) of Section 56505.

(d) The hearing decision shall indicate the extent to which each party has prevailed on each issue heard and decided, including issues involving other public agencies named as parties to the hearing.

SEC. 88. Section 56508 of the Education Code is amended to read:

56508. It is the intent of the Legislature that the department develop training materials that can be used locally by parents, public agencies, and others and conduct workshops on alternative resolutions for resolving differences in a nonadversarial atmosphere with the mutual goal of providing a free appropriate public education for children and youth with disabilities.

SEC. 89. Section 56601.5 of the Education Code is amended to read:

56601.5. Pursuant to Section 1413(a)(7) of Title 20 of the United States Code and Section 300.211 of Title 34 of the Code of Federal Regulations, each special education local plan area annually shall report to the Superintendent the number of pupils receiving special education services participating in the regular school and district assessments and the number participating in an alternate assessment process.

SEC. 90. Section 56606 of the Education Code is amended to read:

56606. The Superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this part. In performing the reviews and audits, the Superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. A special education local plan area shall be reviewed at least once during the period of approval of its local plan.

SEC. 91. Section 56836.04 of the Education Code is amended to read:

56836.04. (a) The Superintendent continuously shall monitor and review all special education programs approved under this part to ensure that all funds appropriated to special education local plan areas under this part are expended for the purposes intended.

(b) Funds apportioned to special education local plan areas pursuant to this chapter are to assist local educational agencies to provide special education and related services to individuals with exceptional needs and shall be expended exclusively for programs operated under this part.

SEC. 92. Section 56845 of the Education Code is amended to read:

56845. (a) The Superintendent may withhold, in whole or in part, state funds or federal funds allocated under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) from a local educational agency after reasonable notice and opportunity for a hearing if the Superintendent finds either of the following:

(1) The local educational agency failed to comply substantially with a provision of state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs which results in the failure to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

(2) The local educational agency failed to implement the decision of a due process hearing officer based on noncompliance with provisions of this part, the implementing regulations, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free appropriate public education for an individual with exceptional needs.

(b) When the Superintendent determines that a local educational agency made substantial progress toward compliance with state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs, the Superintendent may apportion the state or federal funds withheld from the local educational agency.

(c) Notwithstanding any other provision of law, state funds may not be allocated to offset any federal funding intended for individuals with exceptional needs, as defined in Section 56026, and withheld from a local educational agency due to the agency's noncompliance with state or federal law.

(d) For purposes of this section, in order to enter into contracts with one or more local educational agencies to serve individuals with exceptional needs who are not being served as required under this part, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

SEC. 93. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized education program for an individual residing in a state hospital who is eligible for services under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall include on its interdisciplinary team a representative of the local educational agency in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the local educational agency for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education local plan area that is required by this section to provide a representative from the district or special education local plan area does not do so, the county office shall provide a representative.

(b) The state hospital shall reimburse the local educational agency, as the case may be, for the costs, including salary, of providing the representative.

(c) Once the individual is enrolled in the community program, the local educational agency providing special education shall be responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The public agency responsible for the individualized education program shall be responsible for all individual protections, including notification and due process.

SEC. 94. Section 56863 of the Education Code is amended to read:

56863. The state hospitals, as part of the notification to parents of pupils of their rights pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

For purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Section 300.519 of Title 34 of the Code of Federal Regulations.

Information and records concerning state hospital patients in the possession of the Superintendent shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the federal Privacy Act of 1974, Public Law 93-579.

SEC. 94.5. Chapter 9 (commencing with Section 56875) of Part 30 of Division 4 of Title 2 of the Education Code is repealed.

SEC. 95. Section 7570 of the Government Code is amended to read:

7570. Ensuring maximum utilization of all state and federal resources available to provide a child with a disability, as defined in Section

1401(3) of Title 20 of the United States Code, with a free appropriate public education, the provision of related services, as defined in Section 1401(26) of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, to a child with a disability, shall be the joint responsibility of the Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency. The Superintendent of Public Instruction shall ensure that this chapter is carried out through monitoring and supervision.

SEC. 96. Section 7571 of the Government Code is amended to read:

7571. The Secretary of the Health and Human Services Agency may designate a department of state government to assume the responsibilities described in Section 7570. The secretary, or his or her designee, also shall designate a single agency in each county to coordinate the service responsibilities described in Section 7572.

SEC. 97. Section 7572.5 of the Government Code is amended to read:

7572.5. (a) When an assessment is conducted pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.8 of Title 34 of the Code of Federal Regulations, and any member of the individualized education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include a representative of the county mental health department.

(b) The expanded individualized education program team shall review the assessment and determine whether:

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care is necessary for the child to benefit from educational services.

(3) Residential services are available that address the needs identified in the assessment and that will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program that calls for residential placement, the individualized education program shall include all of the items outlined in Section 56345 of the Education Code, and shall also include:

(1) Designation of the county mental health department as lead case manager. Lead case management responsibility may be delegated to the county welfare department by agreement between the county welfare department and the designated county mental health department. The

county mental health department shall retain financial responsibility for the provision of case management services.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Identification of an appropriate residential facility for placement with the assistance of the county welfare department as necessary.

SEC. 98. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or any community mental health service, as defined in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, is responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, "parent" is as defined in Section 56028 of the Education Code.

(b) A local educational agency, individualized education program team, or parent may initiate a referral for assessment of the social and emotional status of a pupil, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs as defined in Section 56026 of the Education Code and who is suspected of needing mental health services to a community mental health service if the pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local educational agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local educational agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that are all of the following:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local educational agency, pursuant to Section 56331 of the Education Code, has provided appropriate counseling and guidance services, psychological services, parent counseling and training, or social work services to the pupil pursuant to Section 56363 of the Education Code, or behavioral intervention as specified in Section 56520 of the Education Code, as specified in the individualized education program and the individualized education program team has determined that the services do not meet the educational needs of the pupil, or, in cases where these services are clearly inadequate or inappropriate to meet the educational needs of the pupil, the individualized education program team has documented which of these services were considered and why they were determined to be inadequate or inappropriate.

(c) If referring a pupil to a community mental health service in accordance with subdivision (b), the local educational agency or the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, as provided in the individualized education program of the pupil, including the initiation, duration, and frequency of these services, or an explanation of the reasons a service was considered for the pupil and determined to be inadequate or inappropriate to meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.34 and 300.39 of Title 34 of the Code of Federal Regulations.

(5) An explanation as to the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision does not change the identification and referral responsibilities imposed on local educational agencies under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for the provision of necessary services. In no event shall the procedures described in this subdivision delay or impede the referral and assessment process.

(h) A county mental health agency does not have fiscal or legal responsibility for any costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

SEC. 99. Section 7579.5 of the Government Code is amended to read:

7579.5. (a) In accordance with Section 1415(b)(2)(B) of Title 20 of the United States Code, a local educational agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent. A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

(1) (A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid individualized education program, (B) the court specifically has limited

the right of the parent or guardian to make educational decisions for the child, and (C) the child has no responsible adult to represent him or her pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055 of the Education Code.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(b) When appointing a surrogate parent, the local educational agency, as a first preference, shall select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the local educational agency shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

(c) For purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter.

(d) The surrogate parent is required to meet with the child at least one time. He or she may also meet with the child on additional occasions, attend the child's individualized education program team meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to individualized education program purposes.

(e) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(f) The surrogate parent shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with

appropriate persons for the purpose of furthering the interests of the child.

(g) The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency.

(h) The local educational agency shall terminate the appointment of a surrogate parent if (1) the person is not properly performing the duties of a surrogate parent or (2) the person has an interest that conflicts with the interests of the child entrusted to his or her care.

(i) Individuals who would have a conflict of interest in representing the child, as specified in Section 300.519(d) of Title 34 of the Code of Federal Regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.

(j) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child.

(1) A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides noneducational care for the child and who meets the other standards of this section.

(2) A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the local educational agency solely because he or she is paid by the local educational agency to serve as a surrogate parent.

(k) The surrogate parent may represent the child until (1) the child is no longer in need of special education, (2) the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent, (3) another responsible adult is appointed to make educational decisions for the minor, or (4) the right of the parent or guardian to make educational decisions for the minor is fully restored.

(*l*) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(m) The State Department of Education shall develop a model surrogate parent training module and manual that shall be made available to local educational agencies.

(n) Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(o) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-0890 of Section 2.00 of the annual Budget Act.

SEC. 100. Section 7579.6 of the Government Code is amended to read:

7579.6. (a) In accordance with Section 1415(b)(2)(A) of Title 20 of the United States Code, in the case of a child who is a ward of the state, the surrogate parent described in Section 7579.5 may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of Section 7579.5.

(b) In the case of an unaccompanied homeless youth as defined in Section 725(6) of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(6)), the local educational agency shall appoint a surrogate parent in accordance with Section 7579.5 and Section 300.519(f) of Title 34 of the Code of Federal Regulations.

SEC. 101. Section 7585 of the Government Code is amended to read:

7585. (a) Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's individualized education program, the parent, adult pupil, or any local educational agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of the Health and Human Services Agency.

(b) When either the Superintendent of Public Instruction or the Secretary of the Health and Human Services Agency receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The Superintendent of Public Instruction, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local educational agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative

Hearings, or his or her designee, in the State Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the Director of the Office of Administrative Hearings, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local educational agency, either party may appeal to the Director of the Office of Administrative Hearings, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency shall ensure that funds are available for the provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) Nothing in this section prevents a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

SEC. 102. Section 7586.5 of the Government Code is amended to read:

7586.5. Not later than January 1, 1988, the Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency jointly shall submit to the Legislature and the Governor a report on the implementation of this chapter. The report shall include, but not be limited to, information regarding the number of complaints and due process hearings resulting from this chapter.

SEC. 103. Section 7586.6 of the Government Code is amended to read:

7586.6. (a) The Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency shall ensure that the State Department of Education and the State Department of Mental Health enter into an interagency agreement by January 1, 1998. It is the intent of the Legislature that the agreement include, but not be limited to, procedures for ongoing joint training, technical assistance for state and local personnel responsible for implementing this chapter, protocols

for monitoring service delivery, and a system for compiling data on program operations.

(b) It is the intent of the Legislature that the designated local agencies of the State Department of Education and the State Department of Mental Health update their interagency agreements for services specified in this chapter at the earliest possible time. It is the intent of the Legislature that the state and local interagency agreements be updated at least every three years or earlier as necessary.

SEC. 104. Section 7586.7 of the Government Code is amended to read:

7586.7. The Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency jointly shall prepare and implement within existing resources a plan for in-service training of state and local personnel responsible for implementing the provisions of this chapter.

SEC. 105. Section 95001 of the Government Code is amended to read:

95001. (a) The Legislature hereby finds and declares all of the following:

(1) There is a need to provide appropriate early intervention services individually designed for infants and toddlers from birth through two years of age, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays.

(2) Early intervention services for infants and toddlers with disabilities or at risk represent an investment of resources, in that these services reduce the ultimate costs to our society, by minimizing the need for special education and related services in later school years and by minimizing the likelihood of institutionalization. These services also maximize the ability of families to better provide for the special needs of their child. Early intervention services for infants and toddlers with disabilities maximize the potential to be effective in the context of daily life and activities, including the potential to live independently, and exercise the full rights of citizenship. The earlier intervention is started, the greater is the ultimate cost-effectiveness and the higher is the educational attainment and quality of life achieved by children with disabilities.

(3) The family is the constant in the child's life, while the service system and personnel within those systems fluctuate. Because the primary responsibility of an infant's or toddler's well-being rests with the family, services should support and enhance the family's capability to meet the special developmental needs of their infant or toddler with disabilities.

(4) Family to family support strengthens families' ability to fully participate in services planning and their capacity to care for their infant or toddler with disabilities.

(5) Meeting the complex needs of infants with disabilities and their families requires active state and local coordinated, collaborative, and accessible service delivery systems that are flexible, culturally competent, and responsive to family identified needs. When health, developmental, educational, and social programs are coordinated, they are proven to be cost-effective, not only for systems, but for families as well.

(6) Family-professional collaboration contributes to changing the ways that early intervention services are provided and to enhancing their effectiveness.

(7) Infants and toddlers with disabilities are a part of their communities, and as citizens make valuable contributions to society as a whole.

(b) Therefore, it is the intent of the Legislature that:

(1) Funding provided under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), be used to improve and enhance early intervention services as defined in this title by developing innovative ways of providing family focused, coordinated services, which are built upon existing systems.

(2) The State Department of Developmental Services, the State Department of Education, the State Department of Health Care Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Alcohol and Drug Programs coordinate services to infants and toddlers with disabilities and their families. These agencies need to collaborate with families and communities to provide a family-centered, comprehensive, multidisciplinary, interagency community-based, early intervention system for infants and toddlers with disabilities.

(3) Families be well informed, supported, and respected as capable and collaborative decisionmakers regarding services for their child.

(4) Professionals be supported to enhance their training and maintain a high level of expertise in their field, as well as knowledge of what constitutes most effective early intervention practices.

(5) Families and professionals join in collaborative partnerships to develop early intervention services which meet the needs of infants and toddlers with disabilities, and that such partnerships be the basis for the development of services which meet the needs of the culturally and linguistically diverse population of California.

(6) To the maximum extent possible, infants and toddlers with disabilities and their families be provided services in the most natural

environment, and include the use of natural supports and existing community resources.

(7) The services delivery system be responsive to the families and children it serves within the context of cooperation and coordination among the various agencies.

(8) Early intervention program quality be ensured and maintained through established early intervention program and personnel standards.

(9) The early intervention system be responsive to public input and participation in the development of implementation policies and procedures for early intervention services through the forum of an interagency coordinating council established pursuant to federal regulations under Part C of the federal Individuals with Disabilities Education Act.

(c) It is not the intent of the Legislature to require the State Department of Education to implement this title unless adequate reimbursement, as specified and agreed to by the department, is provided to the department from federal funds from Part C of the federal Individuals with Disabilities Education Act.

SEC. 106. Section 95003 of the Government Code, as added by Section 2 of Chapter 945 of the Statutes of 1993, is amended to read:

95003. (a) The state's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) shall be contingent on the receipt of federal funds to cover the costs of complying with the federal statutes and regulations that impose new requirements on the state. The State Department of Developmental Services and the State Department of Education annually shall report to the Department of Finance during preparation of the Governor's Budget, and the May revision, the budget year costs and federal funds projected to be available.

(b) If the amount of funding provided by the federal government pursuant to Part C of the federal Individuals with Disabilities Education Act for the 1993–94 fiscal year, or any fiscal year thereafter, is not sufficient to fund the full increased costs of participation in this federal program by the local educational agencies, as required pursuant to this title, for infants and toddlers from birth through two years of age identified pursuant to Section 95014, and that lack of federal funding would require an increased contribution from the General Fund or a contribution from a local educational agency in order to fund those required and supplemental costs, the state shall terminate its participation in the program. Termination of the program shall occur on July 1 if local educational agencies have been notified of the termination prior to March 10 of that calendar year. If this notification is provided after March 10 of a calendar year, then termination shall not occur earlier than July 1

of the subsequent calendar year. The voluntary contribution by a state or local agency of funding for any of the programs or services required pursuant to this title shall not constitute grounds for terminating the state's participation in that federal program. It is the intent of the Legislature that if the program terminates, the termination shall be carried out in an orderly manner with notification of parents and certificated personnel.

(c) This title shall remain in effect only until the state terminates its participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for individuals from birth through two years of age and notifies the Secretary of the Senate of the termination, and as of that later date is repealed. As the lead agency, the State Department of Developmental Services shall, upon notification by the Department of Finance or the State Department of Education as to the insufficiency of federal funds and the termination of this program, be responsible for the payment of services pursuant to this title when no other agency or department is required to make these payments.

SEC. 107. Section 95006 of the Government Code is amended to read:

95006. This title shall be administered under the shared direction of the Secretary of the Health and Human Services Agency and the Superintendent of Public Instruction. The planning, development, implementation, and monitoring of the statewide system of early intervention services shall be conducted by the State Department of Developmental Services in collaboration with the State Department of Education with the advice and assistance of an interagency coordinating council established pursuant to federal regulations.

SEC. 108. Section 95007 of the Government Code is amended to read:

95007. The State Department of Developmental Services shall serve as the lead agency responsible for administration and coordination of the statewide system. The specific duties and responsibilities of the State Department of Developmental Services shall include, but are not limited to, all of the following:

(a) Establishing a single point of contact with the federal Office of Special Education Programs for the administration of Part C of the federal Individuals with Disabilities Education Act.

(b) Administering the state early intervention system in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), applicable regulations, and an approved state application.

(c) Administering mandatory and discretionary components as specified in Sections 95022 and 95024.

(d) Administering fiscal arrangements and interagency agreements with participating agencies and community-based organizations to implement this title.

(e) Establishing interagency procedures, including the designation of local coordinating structures, as are necessary to share agency information and to coordinate policymaking activities.

(f) Adopting written procedures for receiving and resolving complaints regarding violations of Part C of the federal Individuals with Disabilities Education Act by public agencies covered under this title, as specified in Section 1435(a)(10) of Title 20 of the United States Code and appropriate federal regulations.

(g) Establishing, adopting, and implementing procedural safeguards that comply with the requirements of Part C of the federal Individuals with Disabilities Education Act, as specified in Section 1439 of Title 20 of the United States Code and appropriate federal regulations.

(h) (1) Monitoring of agencies, institutions, and organizations receiving assistance under this title.

(2) Monitoring shall be conducted by interagency teams that are sufficiently trained to ensure compliance. Interagency teams shall consist of, but not be limited to, representatives from the State Department of Developmental Services, the State Department of Education, the interagency coordinating council, or a local family resource center or network, parent, direct service provider, or any other agency responsible for providing early intervention services.

(3) All members of an interagency team shall have access to all information that is subject to review. Members of each interagency team shall maintain the confidentiality of the information, and each member of the interagency team shall sign a written agreement of confidentiality.

(4) A summary of monitoring issues and findings shall be forwarded biannually to the interagency coordinating council for review.

(i) Establishing innovative approaches to information distribution, family support services, and interagency coordination at the local level.

(j) Ensuring the provision of appropriate early intervention services to all infants eligible under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and under Section 95014, except for those infants who have solely a low incidence disability as defined in Section 56026.5 of the Education Code and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

The development and implementation of subdivisions (e) to (h), inclusive, shall be a collaborative effort between the State Department of Developmental Services and the State Department of Education. In

establishing the written procedures for receiving and resolving complaints as specified in subdivision (f) and in establishing and implementing procedural safeguards as specified in subdivision (g), it is the intent of the Legislature that these procedures be identical for all infants served under this act and shall be in accordance with Sections 303.400 and 303.420(b) of Title 34 of the Code of Federal Regulations. The procedural safeguards and due process requirements established under this title shall replace and be used in lieu of due process procedures contained in Chapter 1 (commencing with Section 4500) of Division 4.5 of the Welfare and Institutions Code and Part 30 (commencing with Section 56500) of the Education Code for infants and their families eligible under this title.

SEC. 109. Section 95008 of the Government Code is amended to read:

95008. The State Department of Education shall be responsible for administering services and programs for infants with solely visual, hearing, and severe orthopedic impairments, and any combination thereof, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations and Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

SEC. 110. Section 95014 of the Government Code is amended to read:

95014. (a) The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under Section 95014, except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies. The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) No agency or multidisciplinary team, including any agency listed in Section 95012, shall presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

SEC. 111. Section 95016 of the Government Code is amended to read:

95016. (a) Each infant or toddler referred for evaluation for early intervention services shall have a timely, comprehensive, multidisciplinary evaluation of his or her needs and level of functioning in order to determine eligibility. In the process of determining eligibility of an infant or toddler, an assessment shall be conducted by qualified personnel, and shall include a family interview, to identify the child's unique strengths and needs and the services appropriate to meet those needs; and the resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler. Evaluations and assessments shall be shared and utilized between the regional center and the local educational agency, and any other agency providing services for the eligible infant or toddler, as appropriate. Family assessments shall be family directed and voluntary on the part of the family. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(b) Regional centers and local educational agencies or their designees shall be responsible for ensuring that the requirements of this section are implemented. The procedures, requirements, and timelines for evaluation and assessment shall be consistent with the statutes and regulations under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), applicable regulations, and this title, and shall be specified in regulations adopted pursuant to Section 95028.

SEC. 112. Section 95018 of the Government Code is amended to read:

95018. Each eligible infant or toddler and family shall be provided a service coordinator who will be responsible for facilitating the implementation of the individualized family service plan and for coordinating with other agencies and persons providing services to the family. The qualifications, responsibilities, and functions of service coordinators shall be consistent with the statutes and regulations under

Part C and this title, and shall be specified in regulations adopted pursuant to Section 95028. The State Department of Developmental Services shall ensure that service coordinators, as defined in federal law, meet federal and state regulation requirements, are trained to work with infants and their families, and meet competency requirements set forth in Section 303.22(d) of Title 34 of the Code of Federal Regulations. Service coordinator caseloads shall be an overall average of 62 consumers to each staff member. Pursuant to Section 303.521 of Title 34 of the Code of Federal Regulations, service coordination is not subject to any fees that might be established for any other federal or state program.

SEC. 113. Section 95020 of the Government Code is amended to read:

95020. (a) An eligible infant or toddler shall have an individualized family service plan. The individualized family service plan shall be used in place of an individualized education program required pursuant to Sections 4646 and 4646.5 of the Welfare and Institutions Code, the individualized education program required pursuant to Section 56340 of the Education Code, or any other applicable service plan.

(b) For an infant or toddler who has been evaluated for the first time, a meeting to share the results of the evaluation, to determine eligibility and, for children who are eligible, to develop the initial individualized family service plan shall be conducted within 45 calendar days of receipt of the written referral. Evaluation results and determination of eligibility may be shared in a meeting with the family prior to the individualized family service plan. Written parent consent to evaluate and assess shall be obtained within the 45-day timeline. A regional center, local educational agency, or their designees shall initiate and conduct this meeting. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(c) Parents shall be fully informed of their rights, including the right to invite any other person, including a family member or an advocate or peer parent, or any or all of them, to accompany them to any or all individualized family service plan meetings. With parental consent, a referral shall be made to the local family resource center or network.

(d) The individualized family service plan shall be in writing and shall address all of the following:

(1) A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments.

(2) With the concurrence of the family, a statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the eligible infant or toddler.

(3) A statement of the major outcomes expected to be achieved for the infant or toddler and family where services for the family are related to meeting the special developmental needs of the eligible infant or toddler.

(4) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions are necessary.

(5) A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified in paragraph (3), including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of providing services in natural environments.

(6) A statement of the agency responsible for providing the identified services.

(7) The name of the service coordinator who shall be responsible for facilitating implementation of the plan and coordinating with other agencies and persons.

(8) The steps to be taken to ensure transition of the infant or toddler upon reaching three years of age to other appropriate services. These may include, as appropriate, special education or other services offered in natural environments.

(9) The projected dates for the initiation of services in paragraph (5) and the anticipated duration of those services.

(e) Each service identified on the individualized family service plan shall be designated as one of three types:

(1) An early intervention service, as defined in Part C (20 U.S.C. Sec. 1432(4)), and applicable regulations, that is provided or purchased through the regional center, local educational agency, or other participating agency. The State Department of Health Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall provide services in accordance with state and federal law and applicable regulations, and up to the level of funding as appropriated by the Legislature. Early intervention services identified on an individualized family service plan that exceed the funding, statutory, and regulatory requirements of these departments shall be provided or purchased by regional centers or local educational agencies under subdivisions (b) and (c) of Section 95014. The State Department of Health Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall not be required to provide early intervention services over their existing funding, statutory, and regulatory requirements.

(2) Any other service, other than those specified in paragraph (1), which the eligible infant or toddler or his or her family may receive from other state programs, subject to the eligibility standards of those programs.

(3) A referral to a nonrequired service that may be provided to an eligible infant or toddler or his or her family. Nonrequired services are those services that are not defined as early intervention services or do not relate to meeting the special developmental needs of an eligible infant or toddler related to the disability, but which may be helpful to the family. The granting or denial of nonrequired services by any public or private agency is not subject to appeal under this title.

(f) An annual review, and other periodic reviews of the individualized family service plan for an infant or toddler and the infant's or toddler's family shall be conducted to determine the degree of progress that is being made in achieving the outcomes specified in the plan and whether modification or revision of the outcomes or services is necessary. The frequency, participants, purpose, and required processes for annual and periodic reviews shall be consistent with the statutes and regulations under Part C and this title, and shall be specified in regulations adopted pursuant to Section 95028.

SEC. 114. Section 95024 of the Government Code is amended to read:

95024. (a) Any increased cost to local educational agencies due to the implementation of this title shall be funded from the Part C federal funds provided for the purposes of this title.

(b) Any increased costs to regional centers due to the implementation of this title shall be funded from the Part C federal funds provided for the purposes of this title.

(c) The annual Budget Act shall specify the amount of federal Part C funds allocated for local assistance and for state operations individually, for the State Department of Developmental Services, and for the State Department of Education.

(d) If federal funds are available after mandatory components and increased costs in subdivisions (a) and (b), if any, are funded, the lead agency, in consultation with the State Department of Education, may do the following:

(1) Designate local interagency coordination areas throughout the state and allocate available Part C federal funds to fund interagency coordination activities, including, but not limited to, outreach and public awareness, and interagency approaches to service planning and delivery. If the lead agency chooses to designate and fund local interagency coordination areas, the lead agency shall first offer to enter into a contract with the regional center or a local educational agency. If the regional

center or any of the local educational agencies do not accept the offer, the lead agency, in consultation with the State Department of Education and the approval of the regional center and local educational agencies in the area, directly may enter into a contract with a private, nonprofit organization. Nothing in this section shall preclude a regional center or local educational agency that enters into a contract with the lead agency from subcontracting with a private, nonprofit organization.

(2) Allocate funds to support family resource services, including, but not limited to, parent-to-parent support, information dissemination and referral, public awareness, family-professional collaboration activities, and transition assistance for families.

(e) If an expenditure plan is developed under subdivision (d), the lead agency, in consultation with the State Department of Education, shall give high priority to funding family resource services.

(f) Nothing in this section shall be construed to limit the lead agency's authority, in consultation with the State Department of Education, to allocate discretionary Part C federal funds for any legitimate purpose consistent with the statutes and regulations under Part C (20 U.S.C. Secs. 1431 to 1444, inclusive) and this title.

SEC. 115. Section 95026 of the Government Code is amended to read:

95026. The lead agency shall maintain a system for compiling data required by the federal Office of Special Education Programs, through Part C of the federal Individuals with Disabilities Education Act, including the number of eligible infants and toddlers and their families in need of appropriate early intervention services, the number of eligible infants and toddlers and their families served, the types of services provided, and other information required by the federal Office of Special Education Programs. All participating agencies listed in Section 95012 shall assist in the development of the system and shall cooperate with the lead agency in meeting federal data requirements. The feasibility of using existing systems and including social security numbers shall be explored to facilitate data collection.

SEC. 116. Section 95028 of the Government Code is amended to read:

95028. (a) On or before October 1, 1995, the State Department of Developmental Services, on behalf of the Secretary of the Health and Human Services Agency, and the State Department of Education, on behalf of the Superintendent of Public Instruction, jointly shall develop, approve, and implement regulations, as necessary, to comply with the requirements of this title and Part C, as specified in federal statutes and regulations.

(b) The regulations developed pursuant to this section shall include, but are not limited to, the following requirements:

(1) The administrative structure for planning and implementation of the requirements of this title and Part C.

(2) Eligibility for Part C services.

(3) Evaluation and assessment.

(4) Individualized family service plans.

(5) Service coordination.

(6) The program and service components of the statewide system for early intervention services.

(7) The duties and responsibilities of the lead agency as specified in Section 95006, including procedural safeguards and the process for resolving complaints against a public agency for violation of the requirements of Part C.

(c) The State Department of Developmental Services shall adopt regulations to implement this title in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Initial regulations to implement this title shall be adopted as emergency regulations. The adoption of these initial emergency regulations shall be considered by the Office of Administrative Law to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The initial emergency regulations shall remain in effect for no more than 180 days. These regulations shall be jointly developed by the State Department of Developmental Services and the State Department of Education by July 1, 1994. The Department of Finance shall review and comment upon the emergency regulations prior to their adoption.

SEC. 117. Section 95029 of the Government Code is amended to read:

95029. The State Department of Developmental Services and the State Department of Education shall ensure that an independent evaluation of the program and its structure is completed by October 1, 1996. The evaluation shall address the following issues:

(a) The efficiency and cost-effectiveness of the state administrative structure, the local interagency coordinating structure, and the mandatory program components.

(b) The degree to which programs and services provided through regional centers and local educational agencies fulfill the purpose of Part C of the federal Individuals with Disabilities Education Act.

(c) The extent to which implementation of the program has resulted in improved services for infants and their families, and greater satisfaction with service delivery by families.

(d) The outcomes and effectiveness of family resource centers.

(e) The adequacy of the Part C funding models. The evaluation shall be funded with federal funds.

CHAPTER 57

An act to amend Sections 31680.2, 31680.3, and 31680.6 of the Government Code, relating to county employees' retirement.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 31680.2 of the Government Code is amended to read:

31680.2. (a) Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, for not to exceed 90 working days or 720 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

SEC. 2. Section 31680.3 of the Government Code is amended to read:

31680.3. (a) Notwithstanding Section 31680.2, any member who has been covered under the provisions of Section 31751 and has retired may be reemployed in a position requiring special skills or knowledge, as determined by the county or district employing the member, for not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment

shall not operate to reinstate the person as a member of this system or to terminate or suspend the person's retirement allowance, and no deductions shall be made from the person's salary as contributions to this system.

(b) (1) This section shall not apply to any retired member who is otherwise eligible for reemployment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

SEC. 3. Section 31680.6 of the Government Code is amended to read:

31680.6. (a) Notwithstanding Section 31680.2, any county subject to Section 31680.2 may, upon adoption of a resolution by a majority vote by the board of supervisors, extend the period of time provided for in Section 31680.2 for which a person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, to not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

CHAPTER 58

An act to amend Sections 34623.5, 34630, 34640, and 34671 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 12, 2007. Filed with
Secretary of State July 12, 2007.]

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

SECTION 1. Section 34623.5 of the Vehicle Code is amended to read:

34623.5. Except as provided under subdivision (c) of Section 34630 and subdivision (d) of Section 34640, before a permit may be reissued after a suspension is terminated, there shall, in addition to any other fees required by this code, be paid to the department a fee of one hundred fifty dollars ($150).

SEC. 2. Section 34630 of the Vehicle Code is amended to read:

34630. (a) A motor carrier permit shall not be granted to any motor carrier of property until there is filed with the department proof of financial responsibility in the form of a currently effective certificate of insurance, issued by a company licensed to write that insurance in this state or by a nonadmitted insurer subject to Section 1763 of the Insurance Code, if the policy represented by the certificate meets the minimum insurance requirements contained in Section 34631.5. The certificate of insurance or surety bond shall provide coverage with respect to the operation, maintenance, or use of any vehicle for which a permit is required, although the vehicle may not be specifically described in the policy, or a bond of surety issued by a company licensed to write surety bonds in this state, or written evidence of self-insurance by providing the self-insured number granted by the department on a form approved by the department.

(b) Proof of financial responsibility shall be continued in effect during the active life of the motor carrier permit. The certificate of insurance shall not be cancelable on less than 30 days' written notice from the insurer to the department except in the event of cessation of operations as a permitted motor carrier of property.

(c) Whenever the department determines or is notified that the certificate of insurance or surety bond of a motor carrier of property will lapse or be terminated, the department shall suspend the carrier's permit effective on the date of lapse or termination unless the carrier provides evidence of valid insurance coverage pursuant to subdivision (a).

(1) If the carrier's permit is suspended, the carrier shall pay a reinstatement fee as set forth in Section 34623.5, and prior to conducting on-highway operations, present proof of financial responsibility pursuant to subdivision (a) in order to have the permit reinstated.

(2) If the evidence provided by the carrier of valid insurance coverage pursuant to subdivision (a) demonstrates that a lapse in coverage for the carrier's operation did not occur, the reinstatement fee shall be waived.

SEC. 3. Section 34640 of the Vehicle Code is amended to read:

34640. (a) A motor carrier permit shall not be granted to any motor carrier of property until one of the following is filed with the department:

(1) A certificate of workers' compensation coverage for its employees issued by an admitted insurer.

(2) A certification of consent to self-insure issued by the Director of Industrial Relations, and the identity of the administrator of the carrier's workers' compensation self-insurance plan.

(3) A statement, under penalty of perjury, stating that, in its operations as a motor carrier of property, it does not employ any person in any manner so as to become subject to the workers' compensation laws of this state.

(b) The workers' compensation certified under paragraph (1) of subdivision (a) shall be effective until canceled. The insurer shall provide to the motor carrier of property and to the department a notice of cancellation not less than 30 days in advance of the effective date.

(c) If, after filing the statement described in paragraph (3) of subdivision (a), the carrier becomes subject to the workers' compensation laws of this state, the carrier shall promptly notify the department that the carrier is withdrawing its statement under paragraph (3) of subdivision (a), and shall simultaneously file the certificate described in either paragraph (1) or (2) of subdivision (a).

(d) Whenever the department determines or is notified that the certificate of workers' compensation insurance or certification to self-insure a motor carrier of property will lapse or be terminated, the department shall suspend the carrier's permit effective on the date of the lapse or termination, unless the motor carrier provides evidence of valid insurance coverage pursuant to subdivision (a).

(1) If the carrier's permit is suspended, the carrier shall pay a reinstatement fee as set forth in Section 34671, and prior to conducting on-highway operations, present proof of valid insurance coverage pursuant to subdivision (a) in order to have the permit reinstated.

(2) If the evidence provided by the carrier of valid insurance coverage pursuant to subdivision (a) demonstrates that a lapse in coverage for the carrier's operation did not occur, the reinstatement fee shall be waived.

SEC. 4. Section 34671 of the Vehicle Code is amended to read:

34671. Except as provided under subdivision (c) of Section 34630 and subdivision (d) of Section 34640, a motor carrier permit suspended or revoked under the provisions of this code shall not be reinstated until a fee of one hundred fifty dollars ($150) has been paid, and the motor carrier permitholder has met all requirements for the issuance of a permit.

CHAPTER 59

An act to amend Section 11011.18 of the Government Code, relating to state property.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 11011.18 of the Government Code is amended to read:

11011.18. The Department of Transportation, by July 1, 2002, shall furnish to the Department of General Services a record of each parcel of real property that it possesses, including lands, buildings, office buildings, maintenance stations, equipment yards, and parking facilities. This furnishing requirement shall not apply to existing highways. The record shall be furnished by the Department of Transportation to the Department of General Services in a uniform format specified by the Department of General Services. The Department of General Services shall consult with the Department of Transportation on the development of the uniform format. The Department of Transportation shall update its record of these real property holdings, reflecting any changes, by July 1 of each year. The record shall include the following information:

(a) The location of the property within the state and county, the size of the property, including its acreage, and any other relevant property data.

(b) The date of acquisition of the real property, if available.

(c) The manner in which the property was acquired and the purchase price, if available.

(d) A description of the current uses of the property and any projected future uses, if available.

(e) A concise description of each major structure on the property.

CHAPTER 60

An act to amend Section 7250 of, and to repeal and add Chapter 3 (commencing with Section 7350) to Part 3 of Division 7 of, the Elections Code, relating to political party organization.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 7250 of the Elections Code is amended to read:

7250. This part shall apply to the organization, operation, and function of that political party known as the California Republican Party.

SEC. 2. Chapter 3 (commencing with Section 7350) of Part 3 of Division 7 of the Elections Code is repealed.

SEC. 3. Chapter 3 (commencing with Section 7350) is added to Part 3 of Division 7 of the Elections Code, to read:

Chapter 3. State Central Committee

7350. The membership of delegates to the state central committee, procedures for notification of members of appointments, proxy provisions, and form of appointment of delegate members shall be as set forth in the standing rules and bylaws of the California Republican Party. The California Republican Party shall maintain a current copy of its standing rules and bylaws for public inspection on the Internet.

7352. The officers, methods of electing officers, terms of officers, quorum requirements for meetings of the state central committee and procedures for the conduct of committee proceedings and adoption of a state party platform shall be as set forth in the standing rules and bylaws of the California Republican Party.

7353. The state central committee shall conduct party campaigns for the party and on behalf of the candidates of the party. It shall appoint committees and appoint and employ campaign directors and perfect whatever campaign organizations it deems suitable or desirable and for the best interest of the party.

7354. (a) The state central committee may prohibit or limit the power of county central committees established pursuant to Chapter 4 (commencing with Section 7400) to endorse, support, or oppose any candidate for nomination by the California Republican Party for partisan office in the direct primary election.

(b) The superior court, in any case brought before it by the state central committee or by any registered voter, may issue a temporary or permanent restraining order or injunction to prohibit the endorsement, support, or opposition by a county central committee of any candidate for nomination by the California Republican Party for partisan office in the direct primary election, if the endorsement, support, or opposition is in violation of the bylaws or rules of the state central committee. All cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to ensure the speedy disposition thereof.

CHAPTER 61

An act to amend Section 1209.5 of the Business and Professions Code, relating to clinical laboratories, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 1209.5 of the Business and Professions Code is amended to read:

1209.5. (a) "Autoverification" means the use of a computer algorithm in conjunction with automated clinical laboratory instrumentation to review and verify the results of a clinical laboratory test or examination for accuracy and reliability.

(b) The laboratory director or authorized designee shall establish, validate, and document explicit criteria by which the clinical laboratory test or examination results are autoverified.

(c) The laboratory director or authorized designee shall annually revalidate the explicit criteria by which the clinical laboratory test or examination results are autoverified. The laboratory director shall approve and annually reapprove the computer algorithm.

(d) An authorized designee may be appointed by the laboratory director for the purposes of this section. The authorized designee shall be licensed to engage in clinical laboratory practice pursuant to this chapter and shall be qualified as a clinical consultant, technical supervisor, general supervisor, or technical consultant pursuant to regulations adopted by the department.

(e) A person licensed to perform the applicable type and complexity of testing pursuant to Section 1206.5 shall be physically present onsite

in the clinical laboratory and shall have documented competency pursuant to Section 1209 in all tests being autoverified, and shall be responsible for the accuracy and reliability of the results of the clinical laboratory test or examination when the results are autoverified and reported.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public's health and safety as soon as possible by clarifying the duties and responsibilities of clinical laboratory personnel, it is necessary that this act take effect immediately.

CHAPTER 62

An act to amend Section 33334.22 of the Health and Safety Code, relating to housing.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 33334.22 of the Health and Safety Code is amended to read:

33334.22. (a) The Legislature finds and declares that in order to avoid serious economic hardships and accompanying blight, it is necessary to enact this section for the purpose of providing housing assistance to very low, lower, and moderate-income households. This section applies to any redevelopment agency located within Santa Cruz County, the Contra Costa County Redevelopment Agency, and the Monterey County Redevelopment Agency.

(b) Notwithstanding Section 50052.5, any redevelopment agency to which this section applies may make assistance available from its low- and moderate-income housing fund directly to a home buyer for the purchase of an owner-occupied home, and for purposes of that assistance and this section, "affordable housing cost" shall not exceed the following:

(1) For very low income households, the product of 40 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product

of 40 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that the affordable housing cost not exceed 40 percent of the gross income of the household.

(3) For moderate income households, affordable housing cost shall not exceed the product of 40 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 40 percent of the gross income of the household.

(c) Any agency that provides assistance pursuant to this section shall include in the annual report to the Controller, pursuant to Sections 33080 and 33080.1, all of the following information:

(1) The sale prices of homes purchased with assistance from the agency's Low and Moderate Income Housing Fund for each year the program has been in operation.

(2) The sale prices of homes purchased and rehabilitated with assistance from the agency's Low and Moderate Income Housing Fund for each year the program has been in operation.

(3) The incomes, and percentage of income paid for housing costs, of all households that purchased, and that purchased and rehabilitated, homes with assistance from the agency's Low and Moderate Income Housing Fund for each year the program has been in operation.

(d) Except as provided in subdivision (b), all provisions of Section 50052.5, including any definitions, requirements, standards, and regulations adopted to implement those provisions, shall apply to this section.

(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.

CHAPTER 63

An act to amend Section 3018 of the Elections Code, relating to absentee voting.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 3018 of the Elections Code is amended to read:

3018. (a) Any voter using an absentee ballot may, prior to the close of the polls on election day, vote the ballot at the office of the elections official. The voter shall vote the ballot in the presence of an officer of the elections official or in a voting booth, at the discretion of the elections official, but in no case may his or her vote be observed. Where voting machines are used the elections official may provide one voting machine for each ballot type used within the jurisdiction. Elections officials may provide electronic voting devices for this purpose provided that sufficient devices are provided to include all ballot types in the election.

(b) For purposes of this section, the office of an elections official may include satellite locations. Notice of the satellite locations shall be made by the elections official by the issuance of a general news release, issued not later than 14 days prior to voting at the satellite location, except that in a county with a declared emergency or disaster, notice shall be made not later than 48 hours prior to voting at the satellite location. The news release shall set forth the following information:

(1) The satellite location or locations.

(2) The dates and hours the satellite location or locations will be open.

(3) A telephone number that voters may use to obtain information regarding absentee ballots and the satellite locations.

(c) Absentee ballots voted at a satellite location pursuant to this section shall be placed in an absentee voter identification envelope to be completed by the voter pursuant to Section 3011. However, if the elections official utilizes electronic voting devices, the absentee ballot may be cast on an electronic voting device.

CHAPTER 64

An act to amend Section 10621 of the Water Code, relating to water.

[Approved by Governor July 12, 2007. Filed with
Secretary of State July 12, 2007.]

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

SECTION 1. Section 10621 of the Water Code is amended to read:

10621. (a) Each urban water supplier shall update its plan at least once every five years on or before December 31, in years ending in five and zero.

(b) Every urban water supplier required to prepare a plan pursuant to this part shall, at least 60 days prior to the public hearing on the plan required by Section 10642, notify any city or county within which the supplier provides water supplies that the urban water supplier will be reviewing the plan and considering amendments or changes to the plan. The urban water supplier may consult with, and obtain comments from, any city or county that receives notice pursuant to this subdivision.

(c) The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

CHAPTER 65

An act to add Section 11402.6 to the Welfare and Institutions Code, relating to foster care.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 11402.6 is added to the Welfare and Institutions Code, to read:

11402.6. (a) The federal government has provided the state with the option of including in its state plan children placed in a private facility operated on a for-profit basis.

(b) For children for whom the county placing agency has exhausted all other placement options, notwithstanding subdivision (h) of Section 11400 and subject to Section 15200.5, a child who is otherwise eligible for federal financial participation in the AFDC-FC payment shall be eligible for aid under this chapter when the child is placed in a for-profit child care institution and meets all of the following criteria, which shall be clearly documented in the county welfare department case file:

(1) The child has extraordinary and unusual special behavioral or medical needs that make the child difficult to place, including, but not limited to, being medically fragile, brittle diabetic, having severe head injuries, a dual diagnosis of mental illness and substance abuse or a dual diagnosis of developmental delay and mental illness.

(2) No other comparable private nonprofit facility or public licensed residential care home exists in the state that is willing to accept placement and is capable of meeting the child's extraordinary special needs.

(3) The county placing agency has demonstrated that no other alternate placement option exists for the child.

(4) The child has a developmental disability and is eligible for both federal AFDC-FC payments and for regional center services.

(c) Federal financial participation shall be provided pursuant to Section 11402 for children described in subdivision (a) subject to all of the following conditions, which shall be clearly documented in the county welfare department case file.

(1) The county placing agency enters into a performance based placement agreement with the for-profit facility to ensure the facility is providing services to improve the safety, permanency, and well-being outcomes of the placed children pursuant to Section 10601.2.

(2) The county placing agency will require the facility to ensure placement in the child's community to the degree possible to enhance ongoing connections with the child's family and to promote the establishment of lifelong connections with committed adults.

(3) The county placing agency monitors and reviews the facility's outcome performance indicators every six months.

(4) In no event shall federal financial participation in this placement exceed a 12-month period.

(5) Payments made under this section shall not be made on behalf of any more than five children in a county at any one time.

(6) Payments made under this section shall be made pursuant to Sections 4684 and 11464, and only to a group home that is an approved vendor of a regional center.

(d) This section shall be implemented only during a federal fiscal year in which the department determines that no restriction on federal matching AFDC-FC payment exists.

(e) As used in this section, "child care institution" means a nondetention facility that has been licensed in accordance with the California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and that has a licensed capacity not exceeding 25 children.

(f) The county placing agency shall review and report to the juvenile court at every six-month case plan update if this placement remains appropriate and necessary and what the plan is for discharge to a less restrictive placement.

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 66

An act to amend Section 7232 of the Revenue and Taxation Code, and to amend Section 34621 of the Vehicle Code, relating to motor carriers.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 7232 of the Revenue and Taxation Code is amended to read:

7232. (a) Every motor carrier of property shall annually pay a permit fee to the Department of Motor Vehicles. The fees contained in this section are due and shall be paid by each carrier at the time of application for an initial motor carrier permit, and upon annual renewal, with the Department of Motor Vehicles, pursuant to the Motor Carriers of Property Permit Act, as set forth in Division 14.85 (commencing with Section 34600) of the Vehicle Code. The Department of Motor Vehicles may, upon initial application for a motor carrier permit, assign an expiration date not less than six months, nor more than 18 months, from date of application, and may charge one-twelfth of the annual fee for each month covered by the initial permit. The fee paid by each motor carrier of property shall be based on the number of commercial motor vehicles operated in California by the motor carrier of property.

(b) As used in this chapter, "motor carrier of property" means any person who operates any commercial motor vehicle as defined in subdivision (d). "Motor carrier of property" does not include a household goods carrier, as defined in Section 5109 of the Public Utilities Code, a household goods carrier transporting used office, store, and institution furniture and fixtures under its household goods carrier permits pursuant to Section 5137 of the Public Utilities Code, persons providing only transportation of passengers, or a passenger stage corporation transporting baggage and express upon a passenger vehicle incidental to the transportation of passengers.

(c) As used in this chapter, "for-hire motor carrier of property" means a motor carrier of property, as defined in subdivision (b), who transports property for compensation.

(d) As used in this chapter, "commercial motor vehicle" means any self-propelled vehicle listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500 of the Vehicle Code, any motor truck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, and any other motor vehicle used to transport property for compensation. "Commercial motor vehicle" does not include vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities Code, vehicles operated by household goods carriers to transport used office, store, and institution furniture and fixtures under their household goods carrier permit pursuant to Section 5137 of the Public Utilities Code, pickup trucks as defined in Section 471 of the Vehicle Code, two-axle daily rental trucks with gross vehicle weight ratings less than 26,001 pounds when operated in noncommercial use or a motor truck or two-axle truck trailer operated in noncommercial use with a gross vehicle weight rating (GVWR) of less than 26,001 pounds used solely to tow a camp trailer, trailer coach, fifth wheel travel trailer, or utility trailer.

(e) The "number of commercial motor vehicles operated by the motor carrier of property" as used in this section means all of the commercial motor vehicles owned, registered to, or leased by the carrier. For interstate and foreign motor carriers of property the fees set forth in subdivision (a) shall be apportioned based on the percentage of fleet miles traveled in California in intrastate commerce. In the absence of records to establish intrastate fleet miles, the fees set forth in subdivision (a) shall be apportioned on total fleet miles traveled in California.

(f) For purposes of this chapter, "private carrier" means a motor carrier of property, as defined in subdivision (b), who does not transport any goods or property for compensation.

(g) (1) Fees contained in this chapter shall not apply to a motor carrier of property while engaged solely in interstate or foreign transportation of property by motor vehicle. A motor carrier of property shall not engage in any interstate or foreign transportation of property for compensation by motor vehicle on any public highway in this state without first having registered the operation with the Department of Motor Vehicles or with the carrier's base registration state, if other than California, as determined in accordance with final regulations issued pursuant to the Federal Unified Carrier Registration Act of 2005 (P.L.109-59). To register with the Department of Motor Vehicles, carriers specified in this subdivision shall comply with the following:

(A) When the operation requires authority from the Federal Motor Carrier Safety Administration under the Federal Unified Carrier Registration Act of 2005 (P.L.109-59), or authority from another federal regulatory agency, a copy of that authority shall be filed with the initial

application for registration. A copy of any additions or amendments to the authority shall be filed with the Department of Motor Vehicles.

(B) If the operation does not require authority from the Federal Motor Carrier Safety Administration under the Federal Unified Carrier Registration Act of 2005 (P.L.109-59), or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.

(2) The Department of Motor Vehicles shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the carrier's compliance with this chapter.

(3) This subdivision does not apply to household goods carriers, as defined in Section 5109 of the Public Utilities Code, and motor carriers engaged in the transportation of passengers for compensation.

SEC. 2. Section 34621 of the Vehicle Code is amended to read:

34621. (a) The fee required by Section 7232 of the Revenue and Taxation Code shall be paid to the department upon initial application for a motor carrier permit and for annual renewal.

(b) An application for an original or a renewal motor carrier permit shall contain all of the following information:

(1) The full name of the motor carrier; any fictitious name under which it is doing business; address, both physical and mailing; and business telephone number.

(2) Status as individual, partnership, owner-operator, or corporation, and officers of corporation and all partners.

(3) Name, address, and driver's license number of owner-operator.

(4) California carrier number, number of commercial motor vehicles in fleet, interstate or intrastate operations, State Board of Equalization, federal Department of Transportation or the Federal Motor Carrier Safety Administration number, as applicable.

(5) Transporter or not a transporter of hazardous materials or petroleum.

(6) Evidence of financial responsibility.

(7) Evidence of workman's compensation coverage, if applicable.

(8) Carrier certification of enrollment in the biennial inspection of terminals (BIT) program under subdivisions (e) and (h) of Section 34501.12, unless otherwise exempted.

(9) Carrier certification of enrollment in a controlled substance and alcohol use and testing (CSAT) program required under Section 34520, unless otherwise exempted.

(10) Any other information necessary to enable the department to determine whether the applicant is entitled to a permit.

CHAPTER 67

An act relating to private postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. (a) It is the intent of the Legislature to provide, through the enactment of subdivision (b), for the protection of the interests of students and institutions having any matter pending before the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007. The Legislature further encourages the Department of Consumer Affairs to provide information to students and institutions during this time period to ensure their understanding of their rights and responsibilities effective February 1, 2008, and that student complaints received during this time period continue to be duly recorded and, to the extent practicable, investigated, so that no Californian is harmed by the delay in the provision of full services.

(b) Notwithstanding any other provision of law:

(1) Each matter pending before the Bureau for Private Postsecondary and Vocational Education as of the close of business on June 30, 2007, shall be deemed to remain pending before the bureau or a successor agency as of February 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

(A) For the purposes of this paragraph, "matter" includes, but is not necessarily limited to, an appeal, a complaint, an evaluation, a hearing, or an investigation.

(B) For the purposes of this paragraph, "matter" does not include a Student Tuition Recovery Fund Claim. Nothing in this paragraph shall be construed to prevent the payment of existing Student Tuition Recovery Fund claims that have been filed with, and approved, by the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007.

(2) Any institution, program, or course of study that is approved by the bureau or authorized pursuant to Section 94905 of the Education Code, as it read on June 30, 2007, as of the close of business on June 30, 2007, shall be deemed to be approved as of February 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. With respect to any deadline applicable to the approval, renewal of approval, or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

(3) From July 1, 2007, to January 31, 2008, inclusive, the Director of Consumer Affairs may enter into voluntary agreements with institutions that state that the institutions agree to comply with state statutes, rules, and regulations pertaining to private postsecondary institutions or pertaining to non-WASC regionally accredited institutions as defined in Section 94740.5 of the Education Code, as it exists on June 30, 2007, in effect as of the close of business on June 30, 2007, that had a valid approval to operate or authorization pursuant to Section 94905 of the Education Code, as it exists on June 30, 2007, for the purpose of ensuring continued student protection after Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it exists on June 30, 2007, becomes inoperative.

(4) From July 1, 2007, to January 31, 2008, inclusive, the Director of Consumer Affairs shall administer the Student Tuition Recovery Fund.

SEC. 2. (a) The Private Postsecondary and Vocational Education Administration Fund is continued in existence under the administration of the Department of Consumer Affairs.

(b) (1) The Student Tuition Recovery Fund is continued in existence under the administration of the Department of Consumer Affairs. The fund shall consist of only one educational institution account for payment of approved claims.

(2) The moneys in the Student Tuition Recovery Fund are continuously appropriated, without regard to fiscal years, to the Director of Consumer Affairs for the purpose of paying claims that were filed with, and approved by, the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, under the provisions of Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it exists on June 30, 2007. A claim that has been filed with and approved by the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, but not paid by the Director of Consumer Affairs between July 1, 2007, and January 31, 2008, inclusive, shall be deemed pending before a successor agency on February 1, 2008.

(3) From July 1, 2007, to December 31, 2007, inclusive, an institution is not liable for payments to the Student Tuition Recovery Fund. During that period, an institution shall not collect money from its students for purposes of making payments to that fund. If any collections are made for an academic term falling within that period, the institution making the collection shall refund those moneys to the student from whom they were collected. Any funds collected by an institution from its students for the purposes of making payments to the Student Tuition Recovery Fund on or before June 30, 2007, and still in the possession of the institution as of July 1, 2007, shall be remitted by the institution to the Director of Consumer Affairs.

(4) It is the intent of the Legislature that, to the extent possible, the Department of Consumer Affairs shall pay claims found to be owed and payable by the Bureau for Private Postsecondary and Vocational Education to students from the Student Tuition Recovery Fund between June 30, 2007, and January 31, 2008, inclusive.

SEC. 3. (a) It is the intent of the Legislature to provide institutions with a legal method by which they may comply with applicable federal statutes, rules, and regulations from July 1, 2007, to January 31, 2008, inclusive, and to affirm for the United States Department of Education that voluntary agreements, as referenced in paragraph (3) of subdivision (b) of Section 1 of this act, demonstrate the legal authorization to operate schools under California law from July 1, 2007, to January 31, 2008, inclusive.

(b) From close of business on June 30, 2007, until close of business on January 31, 2008, inclusive, wherever in law there is a reference to an institution "approved by the Bureau for Private Postsecondary and Vocational Education," this shall mean any school that has entered into, and is complying with, a voluntary agreement under paragraph (3) of subdivision (b) of Section 1 of this act.

SEC. 4. (a) For purposes of this act, "Reform Act" means the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code), as it exists on June 30, 2007.

(b) (1) Notwithstanding any other provision of law, the rights and obligations established by the Reform Act on or before June 30, 2007, shall be determined by the law in effect on or before June 30, 2007, and any claim or cause of action in any manner based on the Reform Act that arose on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the Reform Act on or before June 30, 2007, may be ordered or maintained thereafter.

(2) The rights, obligations, claims, causes of action, and remedies described in paragraph (1) shall remain subject to the provisions of the Reform Act in effect on or before June 30, 2007, notwithstanding the inoperative status or repeal of the Reform Act on or after July 1, 2007.

SEC. 5. (a) Wherever in this act there is a provision related to a voluntary agreement, that provision shall be applicable only if the Department of Consumer Affairs has proposed and tendered that voluntary agreement as permitted by this act, and the institution has submitted to the Department of Consumer Affairs an executed voluntary agreement within 15 days of receipt.

(b) No more than 60 days after the operative date of that the act that adds this section becomes operative, an institution shall disclose to all of its current and prospective students whether it has agreed to, or has declined to enter into, a voluntary agreement with the Director of Consumer Affairs pursuant to paragraph (3) of subdivision (b) of Section 1 of this act.

SEC. 6. It is the intent of the Legislature that the Department of Consumer Affairs shall continue to provide all applicable rights and protections of civil service to its employees, including, but not necessarily limited to, employees of the Bureau for Private Postsecondary and Vocational Education.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. This act, including, but not necessarily limited to, its provisions relating to voluntary agreements, shall apply retroactively to July 1, 2007.

SEC. 9. Private postsecondary educational institutions that have a valid approval to operate, and instructors holding a valid certificate of authorization for service, from the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, shall retain those approvals or certificates of authorization for purposes of interpreting other provisions of applicable law that refer or relate to the issuance of a license or registration and meeting qualifications for licensing examinations. Those approvals shall be effective through July 1, 2008, unless a later enacted statute modifies, extends, or deletes that date.

SEC. 10. Sections 1 to 8, inclusive, of this act shall be repealed on February 1, 2008, unless a later enacted statute, that is enacted before February 1, 2008, deletes or extends that date.

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 provide for the protection of the interests of students and institutions having matters pending before the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, and for students, institutions, and law enforcement agencies having any claim or cause of action in any manner based on the Reform Act and that arose on or before June 30, 2007, it is necessary that this act take effect immediately.

CHAPTER 68

An act to amend Section 1092 of the Government Code, relating to conflicts of interest.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 1092 of the Government Code is amended to read:

1092. (a) Every contract made in violation of any of the provisions of Section 1090 may be avoided at the instance of any party except the officer interested therein. No such contract may be avoided because of the interest of an officer therein unless the contract is made in the official capacity of the officer, or by a board or body of which he or she is a member.

(b) An action under this section shall be commenced within four years after the plaintiff has discovered, or in the exercise of reasonable care should have discovered, a violation described in subdivision (a).

CHAPTER 69

An act relating to truancy.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Notwithstanding any other provision of law, by January 31, 2008, the Commission on State Mandates shall amend the parameters and guidelines regarding the notification of truancy, test claim number SB-90-4133, and modify the definition of a truant and the required elements to be included in the initial truancy notifications to conform reimbursable activities to Chapter 1023 of the Statutes of 1994 and Chapter 19 of the Statutes of 1995. This act does not confer upon the commission the authority to amend the adopted uniform cost allowance. Upon revision of the parameters and guidelines, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Changes made by the commission to the parameters and guidelines shall be deemed effective on July 1, 2006.

CHAPTER 70

An act to amend Section 884.5 of the Public Utilities Code, relating to telecommunications.

[Approved by Governor July 12, 2007. Filed with Secretary of State July 12, 2007.]

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

SECTION 1. Section 884.5 of the Public Utilities Code is amended to read:

884.5. (a) This section shall apply to all customers eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program administered by the Schools and Libraries Division of the Universal Service Administrative Company that also apply for discounts on telecommunications service provided through the California Teleconnect Fund Administrative Committee Fund program pursuant to subdivision (a) of Section 280.

(b) A teleconnect discount shall be applied after applying an E-rate discount. The commission shall first apply an E-rate discount, regardless of whether the customer has applied for an E-rate discount or has been approved, if the customer, in the determination of the commission, meets the eligibility requirements for an E-rate discount.

(c) Notwithstanding subdivision (b), the teleconnect discount shall be applied without regard to an E-rate discount for any school district

that meets the conditions specified for compensation pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code, unless that school district has applied for, and been approved to receive, the E-rate discount.

(d) In establishing any discount under the California Teleconnect Fund program, the commission shall give priority to bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(e) As used in this section:

(1) "E-rate discount" means an actual discount under the E-rate program, or a representative discount figure as determined by the commission.

(2) "E-rate program" means the federal Universal Service E-rate program administered by the Schools and Libraries Division of the Universal Service Administrative Company.

(3) "Teleconnect discount" means a discount on telecommunications service provided through the California Teleconnect Fund Administrative Committee Fund program set forth in subdivision (a) of Section 280.

(f) This section shall become operative on January 1, 2006.

CHAPTER 71

An act to make an appropriation in augmentation of the Budget Act of 2006, relating to contingencies and emergencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. The sum of one hundred forty million five hundred forty-seven thousand dollars ($140,547,000) is hereby appropriated from the General Fund for expenditure for the 2006–07 fiscal year in augmentation of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006). Notwithstanding Provision 7 of Item 9840-001-0001, these funds shall be allocated by the State Controller in accordance with the following schedule:

(a) Seventeen million six hundred eighty-five thousand dollars ($17,685,000) to Item 0690-112-0001.

(b) Six million five hundred thirty-eight thousand dollars ($6,538,000) to Item 3540-001-0001 scheduled as follows:

(1) One hundred thirty-one thousand dollars ($131,000) to Schedule (1) 10-Office of the State Fire Marshal.

(2) Six million fifteen thousand dollars ($6,015,000) to Schedule (2) 11-Fire Protection.

(3) Three hundred ninety-two thousand dollars ($392,000) to Schedule (3) 12-Resource Management.

(c) Five hundred fifteen thousand dollars ($515,000) to Item 4200-102-0001, Schedule (1) 15-Alcohol and Other Drug Services Program.

(d) Five million one hundred ninety-five thousand dollars ($5,195,000) to Item 4200-103-0001, Schedule (1) 15-Alcohol and Other Drug Services Program.

(e) Twenty-eight million seven hundred eight thousand dollars ($28,708,000) to Item 4300-101-0001, Schedule (2) 10.10.020-Purchase of Services.

(f) Two million five hundred eighty-four thousand dollars ($2,584,000) to Item 4440-011-0001, Schedule (4) 20.30-Long-Term Care Services–California Department of Corrections and Rehabilitation.

(g) Fifty-nine million seven hundred twenty-seven thousand dollars ($59,727,000) to Item 4440-101-0001, Schedule (2) 10.30-Community Services–EPSDT.

(h) Four million three hundred thirteen thousand dollars ($4,313,000) to Item 5225-001-0001 scheduled as follows:

(1) One million one hundred twenty-six thousand dollars ($1,126,000) to Schedule (1) 10-Corrections and Rehabilitation Administration.

(2) Eight hundred seven thousand dollars ($807,000) to Schedule (3) 20-Juvenile Operations.

(3) Five hundred thousand dollars ($500,000) to Schedule (6) 23-Juvenile Health Care.

(4) One million two hundred forty-seven thousand dollars ($1,247,000) to Schedule (7) 25-Adult Corrections and Rehabilitation Operations.

(5) Six hundred thirty-three thousand dollars ($633,000) to Schedule (9) 35-Board of Parole Hearings.

(i) Fifteen million two hundred eighty-two thousand dollars ($15,282,000) to Item 5225-002-0001, Schedule (4) 50-Correctional Health Care Services.

SEC. 2. The sum of four hundred twenty-three thousand dollars ($423,000) is hereby appropriated from unallocated nongovernmental cost funds for expenditure for the 2006–07 fiscal year in augmentation of Item 9840-001-0988 of Section 2.00 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006). Notwithstanding Provision 7 of Item 9840-001-0001, the Controller shall allocate four hundred twenty-three thousand dollars ($423,000) to Item 5225-001-0917.

SEC. 3. Any unencumbered balance, as of June 30, 2007, of the funds appropriated within any of the items identified in Section 1 of this act shall revert to the General Fund.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to fully fund the departments and programs specified in this act for the 2006–07 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 72

An act to amend Sections 19601 and 19605.35 of the Business and Professions Code, relating to horse racing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 19601 of the Business and Professions Code is amended to read:

19601. (a) Notwithstanding any other provision of law, a licensed association or fair that is conducting a live meeting in any racing zone may accept wagers on any race conducted in this state, if all of the following requirements are met:

(1) The association or fair that conducts the racing meeting and the organization that is responsible for negotiating purse agreements on behalf of the horsemen participating in that racing meeting consent to the acceptance of the wagers. However, if consent is withheld, any party may appeal the withholding of consent to the board, which may determine that consent is not required.

(2) The association or fair conducts not less than eight races on days when the association or fair is licensed to conduct racing, except that fewer than eight live races per day may be conducted by the mutual agreement of the association or fair and the organization that is responsible for negotiating purse agreements on behalf of the horsemen participating in the racing meeting.

(3) Wagering is offered only within the association's or fair's racing inclosure or within the satellite wagering facility and only within seven

days of the commencement of the racing program with the transmitted race.

(4) All wagers are included in the appropriate parimutuel pool at the racetrack of the association or fair where the race is conducted, or, in the appropriate parimutuel pool of the racetrack of the association or fair that accepts the transmitted race.

(5) The association or fair accepting wagers on an out-of-zone transmitted race distributes the audiovisual signal of the race to, and accepts wagers from, all eligible satellite wagering facilities.

(b) Any association or fair accepting wagers under subdivision (a) shall deduct, from the total amount handled in each conventional and exotic parimutuel pool on the transmitted race, the same percentages deducted pursuant to Article 9.5 (commencing with Section 19610) for races at its own meeting. However, if the wagers are from a quarter horse race meeting, then the amounts deducted shall be the same as for a quarter horse race meeting. Amounts deducted under this section, including amounts deducted from wagers on out-of-zone races within the inclosure of the association or fair, shall be distributed as provided under Sections 19605.7, 19605.72, and 19605.73 with respect to wagers made within the northern zone, or Sections 19605.71, 19605.72, and 19605.73 with respect to wagers made within the central or southern zone, except that amounts distributed for purposes other than state license fees and fees payable to the Center for Equine Health, School of Veterinary Medicine, University of California at Davis, and the California Animal Health and Food Safety Laboratory shall be proportionally reduced by the amount of any fees paid to the Triple Crown or Breeder's Cup day host association pursuant to subdivision (c). The method used to calculate the reduction in proportionate share shall be approved by the board. For wagers on out-of-state and out-of-country races made within the association's or fair's inclosure, 1 percent shall be distributed to the association or fair as a satellite wagering facility commission.

(c) Nothing in this section precludes an association or fair from charging a fee as a condition of transmitting the Triple Crown or Breeder's Cup day races, except that any fee shall be allocated among all associations, fairs, and satellite wagering facilities receiving the transmitted race in proportion to the amount wagered at each location, and the fee shall equal that charged by the entity conducting the race or races. Further, the only fee that can be charged as a condition of transmitting the signal of an out-of-zone race shall be a fee of 2.5 percent on Breeder's Cup day races.

(d) All breakage and unclaimed tickets, including unclaimed refunds, shall be distributed equally between the association or fair that accepts wagers on the transmitted race, and the horsemen, in the form of purses.

The purse moneys generated by this subdivision shall be made available for purses during the meeting in which they are received by the association or fair, or, if the association or fair is not then conducting a live racing meeting, during the next succeeding meeting of the association or fair.

(e) All wagers made pursuant to this section shall be considered to have been wagered at a satellite wagering facility and shall be excluded from total handle for the purposes of Section 19611.

(f) Notwithstanding Section 19530.5, satellite wagering facilities operated by a fair, in the Counties of Fresno, Kern, or Tulare shall be considered northern zone facilities and shall receive their audiovisual signal from the association or fair conducting a racing meeting in the northern zone that is authorized to distribute the signal and accept wagers on central and southern zone races. Satellite wagering facilities operated by a fair, in the Counties of Santa Barbara or Ventura shall be considered central-southern zone facilities and shall receive the audiovisual signal from the association or fair conducting a racing meeting in the central or southern zone that is authorized to distribute the signal and accept wagers on northern zone races.

(g) All purse moneys derived from wagering on out-of-zone races at fair racing meetings shall be distributed to all breeds of horses participating in the fair meeting in direct proportion to the purse money generated by breed on live races conducted during the fair race meeting.

(h) During calendar periods when both a fair and a thoroughbred association conduct live racing, the amounts deducted under this section shall be distributed on any day of overlap as provided in Section 19607.5, except that the applicable state license fee shall be at the rate specified for nonfair meetings in subdivision (b) of Section 19605.7.

(i) During calendar periods when a thoroughbred association and a fair, or a thoroughbred association and any other breed association are conducting a racing meeting in the same zone, the thoroughbred association shall be the association authorized to distribute out-of-zone, out-of-state, or out-of-country thoroughbred or fair races, except that the thoroughbred association may waive this right and allow the other breed racing association conducting a race meeting to distribute the signal and accept wagers on out-of-zone, out-of-state, or out-of-country thoroughbred or fair races for any racing day or days. For the purposes of this subdivision, the combined central and southern zone shall be considered one zone.

(j) In order to ensure, to the extent possible, that out-of-state and out-of-country simulcasting, furthers the purposes of this section, a committee made up of one representative from each of the then-operating thoroughbred associations or fairs that are conducting a live racing

meeting in the state and one representative of the organization responsible for negotiating purse agreements on behalf of the horsemen participating in the meeting shall do the following:

(1) Determine the out-of-state or out-of-country thoroughbred races to be imported on a statewide basis pursuant to provisions of this chapter.

(2) Ensure, to the extent possible, that the fees charged by out-of-state or out-of-country entities for these signals are at the lowest obtainable rate and at the same rate statewide, in order to maximize the revenue available to in-state associations and fairs and their horsemen.

(3) Ensure, to the extent possible, due to the reciprocal nature of the interstate simulcasting business, that the maximum obtainable revenue is generated by the sale to out-of-state entities of the audiovisual signal of races conducted in this state by thoroughbred associations and fairs.

(4) Ensure that program information requirements for in-state signals comply with the standards of the board, but provide that abbreviated program formats may be used for races imported from other jurisdictions.

(k) Notwithstanding any other provision of law, any thoroughbred association or fair, when operating a live racing meeting, shall distribute the signal of all races conducted by, or disseminated by, that association or fair to, and accept wagers on these races from, any association that is licensed to conduct a live quarter horse or harness racing meeting in Orange County and that conducted such a meeting in 1998.

(*l*) Notwithstanding any other provision of law, all associations or fairs when operating as eligible satellite wagering facilities shall be in compliance with, and subject to the provisions of, Article 9.2 (commencing with Section 19605) of this chapter, and shall display the signal and accept wagers on all live races conducted in this state without regard to breed. Notwithstanding the foregoing provision, a thoroughbred racing association located in the City of Arcadia is exempt from these requirements for live harness and quarter horse races conducted at night unless the thoroughbred racing association facility is open for business at that time and is accepting wagers on other night signals pursuant to this chapter.

A quarter horse racing association located in the southern zone shall display the signal and accept wagers on all races imported by, or conducted by, a harness racing association conducting racing in the northern zone. A harness racing association in the northern zone shall display the signal and accept wagers on all races imported by, or conducted by, a quarter horse racing association conducting racing in the southern zone. On those nights when both the harness racing association in the northern zone and the quarter horse racing association in the southern zone are conducting live racing, the audiovisual signal of both breeds shall be displayed and wagers shall be accepted on both

breeds at each of the locations where the live racing is being conducted, and each association shall display the audiovisual signal and accept wagers on the other association's live or imported races throughout their respective facilities, as they do when they are conducting satellite wagering during other periods of the same day. Each association shall pay the other an additional 5 percent of the amount wagered at their respective facilities on the races imported by, or conducted by, the other racing association. The additional 5 percent received by the racing association pursuant to this paragraph shall be distributed as 50 percent as commissions to the racing association and 50 percent as purses to the horsemen participating in the racing meeting. Further, satellite wagering facilities located at fairs may, but are not required to, accept an audiovisual signal on out-of-state or out-of-country races unless the facility is open for business at the time and accepting wagers on other signals pursuant to this chapter.

SEC. 2. Section 19605.35 of the Business and Professions Code is amended to read:

19605.35. (a) Notwithstanding paragraph (3) of subdivision (a) of Section 19605.3, no fee or charge authorized under that paragraph shall be paid by the operator of a satellite wagering facility that was licensed in the northern zone at any time prior to January 1, 2000. Notwithstanding any other provision of law, total on-track license fees applicable to all wagers made within the inclosure of associations conducting thoroughbred racing meetings in the northern zone, including wagers on out-of-zone, out-of-state, and out-of-country races, shall be reduced by 0.3 percent. In addition, the total on-track license fees applicable to all wagers made within the inclosures of associations conducting thoroughbred racing meetings in the Counties of Alameda and San Mateo shall, beginning on January 1, 2001, and each year thereafter, be further reduced by an additional sum equal to the amount of impact fees respectively received by each association from the Santa Clara County Fair during the 2000 calendar year. The reduction in license fees provided by this section shall be distributed solely to the association in the form of commissions. All other distributions from handle shall be as provided elsewhere in this chapter.

(b) Notwithstanding paragraph (3) of subdivision (a) of Section 19605.3, no fee or charge authorized under that paragraph shall be paid by the operator of a satellite wagering facility that was also licensed at any time during the prior year to conduct a live thoroughbred or quarter horse racing meeting in the central or southern zones or a live fair racing meeting in Los Angeles County. Notwithstanding any other provision of law, on-track license fees applicable to all wagers made within the inclosure of an association conducting a thoroughbred meet in the central

or southern zones, including wagers on out-of-zone, out-of-state, and out-of-country races, shall be reduced by 0.15 percent. The reduction in license fees provided by this section shall be distributed solely to the association in the form of commissions. All other distributions from handle shall be as provided elsewhere in this chapter.

(c) It is, and always has been, the intent of the Legislature that this section apply to impact fees charged by a thoroughbred racing association or a thoroughbred fair racing association in the northern zone, on satellite wagers accepted by satellite facilities operated by those associations.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement needed changes to the Horse Racing Law as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 73

An act to amend Section 44325 of the Education Code, relating to teacher credentialing.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 44325 of the Education Code is amended to read:

44325. (a) The commission shall issue district intern credentials authorizing persons employed by a school district that maintains kindergarten and grades 1 to 12, inclusive, or that maintains classes in bilingual education to provide classroom instruction to pupils in those grades and classes in accordance with the requirements of Section 44830.3. The commission also shall issue district intern credentials authorizing persons employed by a school district to provide classroom instruction to pupils with mild and moderate disabilities in special education classes, in accordance with the requirements of Section 44830.3.

(b) Each district intern credential is valid for a period of two years. A credential may be valid for three years if the intern is participating in a program that leads to the attainment of a specialist credential to teach pupils with mild and moderate disabilities or four years if the intern is

participating in a program that leads to the attainment of both a multiple subject or single subject teaching credential and a specialist credential to teach pupils with mild and moderate disabilities. Upon the recommendation of the school district, the commission may grant a one-year extension of the district intern credential.

(c) The commission shall require each applicant for a district intern credential to demonstrate that he or she meets all of the following minimum qualifications for that credential:

(1) The possession of a baccalaureate degree conferred by a regionally accredited institution of postsecondary education.

(2) The successful passage of the state basic skills proficiency test administered under Sections 44252 and 44252.5.

(3) The successful completion of the appropriate subject matter examination administered by the commission, or a commission-approved subject matter preparation program for the subject areas in which the district intern is authorized to teach.

(4) The oral language component of the assessment program leading to the bilingual-crosscultural language and academic development certificate for persons seeking a district intern credential to teach bilingual education classes.

(d) The commission shall apply the requirements of Sections 44339, 44340, and 44341 to each applicant for a district intern credential.

(e) The commission shall, until January 1, 2010, participate in a pilot program, which may include the San Joaquin County Office of Education and up to five school districts or consortia approved by the commission, to provide teacher preparation programs for teachers of pupils with disabilities in special education classes. Notwithstanding subdivision (a), the commission shall issue district intern credentials authorizing participants in the approved programs to provide classroom instruction to pupils with disabilities in special education classes, in accordance with the requirements of Section 44830.3.

(f) The commission shall ensure that each district internship program in California provides program elements to its interns as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and its implementing regulations.

CHAPTER 74

An act to amend Section 9350.6 of the Government Code, relating to the Legislators' Retirement System.

[Approved by Governor July 17, 2007. Filed with
Secretary of State July 17, 2007.]

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

SECTION 1. Section 9350.6 of the Government Code is amended to read:

9350.6. (a) "Compensation" and "salary" mean the remuneration paid in cash out of funds controlled by the state, excluding mileage, reimbursement for expenses incurred in the performance of official duties, any per diem allowance paid in lieu of those expenses and as limited by Section 9359.05.

(b) Notwithstanding any other provision of this chapter, for purposes of computing a retirement allowance or benefit of a Member of the Legislature, the salary used shall be the highest salary received by the Member of the Legislature while in office.

(c) For purposes of calculating a retirement allowance or benefit pursuant to subdivision (b) of Section 9359.1 for a person who first enters this system on or after January 1, 2008, as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly, the compensation or salary used shall be the highest average salary received by the member during any consecutive 12-month period of service.

CHAPTER 75

An act to amend Section 19618.2 of the Business and Professions Code, relating to horse racing.

[Approved by Governor July 17, 2007. Filed with
Secretary of State July 17, 2007.]

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

SECTION 1. Section 19618.2 of the Business and Professions Code is amended to read:

19618.2. Subdivisions (a) and (b) of Section 19618 shall not apply to either of the following:

(a) Any payment by a licensed quarter horse racing association in the southern zone, to horsemen participating in its race meeting.

(b) Any payment by a licensed thoroughbred racing association in connection with funds contributed or authorized by the horsemen's organization responsible for negotiating purse agreements on behalf of the horsemen participating in the racing meeting, including purse supplements, sponsorship contributions, or promotional funds.

CHAPTER 76

An act to add and repeal Section 7310 of the Elections Code, relating to elections.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 7310 is added to the Elections Code, to read:

7310. (a) Notwithstanding Section 8148, if the Republican National Convention will conclude after the deadline for the Secretary of State to deliver certificates of nomination to local elections officials pursuant to Section 8148, the Chairperson of the Republican State Central Committee shall do one of the following:

(1) Notify the Secretary of State of the apparent nomination of the Republican candidates for President and Vice President of the United States not less than 78 days prior to the election, if all of the following conditions apply:

(A) A candidate for President has attained a sufficient number of delegate votes to assure his or her nomination at the Republican National Convention.

(B) The candidate described in paragraph (1) has identified a person who will be nominated to run for the office of Vice President.

(C) The Republican National Convention is likely to nominate the person who is the choice of the candidate for President in the Vice Presidential nomination.

(2) Notify the Secretary of State of the apparent nomination of the Republican candidates for President and Vice President of the United States as soon as each of these apparent nominations become known but not less than 61 days prior to the election, if all of the following conditions apply:

(A) A candidate for President has attained a sufficient number of delegate votes to assure his or her nomination at the Republican National Convention.

(B) The candidate described in paragraph (1) has identified a person who will be nominated to run for the office of Vice President.

(C) The Republican National Convention is likely to nominate the person who is the choice of the candidate for President in the Vice Presidential nomination.

(b) The Secretary of State shall prepare the certificates of nomination required in Section 8148 to include the names of the Republican candidates for President and Vice President as notified by the Chairperson of the Republican State Central Committee.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

CHAPTER 77

An act to amend Section 19512 of the Business and Professions Code, relating to horse racing.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 19512 of the Business and Professions Code is amended to read:

19512. (a) The board shall require applicants for license as a steward or as an official veterinarian to pass both a written and an oral examination.

(b) The board may admit to the steward examination any person who meets all of the following qualifications:

(1) Has not been convicted of a crime involving moral turpitude or of a felony.

(2) Has been given a physical examination by a licensed physician and surgeon within 60 days prior to the date of application for the steward's examination, indicating at least 20-20 vision or vision corrected to at least 20-20, and normal hearing ability.

(3) Possesses at least one of the following qualifications:

(A) Has at least five years of experience in the parimutuel horse racing industry as a licensed trainer, jockey, or driver.

(B) Has at least 10 years of experience in the California parimutuel horse racing industry as a licensed owner whose experience, knowledge, ability, and integrity relative to the industry are known to the board.

(C) Has at least three years of experience as a licensed racing official, racing secretary, assistant racing secretary, or director of racing.

(D) Has experience in the horse racing industry of a character and for a length of time sufficient, as determined by the board, to qualify the person as having experience substantially equivalent to the experience described in subparagraph (A), (B), or (C).

(c) The board may admit to the official veterinarian examination any person who meets all of the following qualifications:

(1) Is currently licensed to practice veterinary medicine in this state.

(2) Is currently in good standing with the California Veterinary Medical Board.

(3) Has current veterinary malpractice insurance.

CHAPTER 78

An act to amend Sections 10202, 10202.8, 10203.4, and 10270.5 of the Insurance Code, relating to life insurance.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 10202 of the Insurance Code is amended to read:

10202. Life insurance conforming to all the following conditions is one form of group life insurance:

(a) Written under a policy covering when issued not less than two public or private employees.

(b) Written under a policy issued to the employer, the premium on which is to be paid by the employer, by the employee, or by the employer and employees jointly, and insuring either all of the employees or all of any class or classes thereof, determined by conditions pertaining to the employment.

(c) For amounts of insurance based upon some plan which will preclude individual selection.

(d) For the benefit of persons other than the employer. That group insurance may be for the benefit of a trustee of a pension, welfare benefit plan, or trust established by an employer providing life, health, disability, retirement, or similar benefits to employees of the employer or its affiliates, and acting in a fiduciary capacity with respect to those employees, retired employees, or their dependents or beneficiaries, where

the trustee has an insurable interest in the lives of the employees for whom those benefits are to be provided and where the employee has consented in writing to the coverage.

(e) When the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees.

(f) Terminating if, subsequent to issue, (1) the number of employees insured falls below two lives, and (2) the employee contributions, if the premiums for the insurance are on a renewable term insurance basis, exceed one dollar ($1) per month per one thousand dollars ($1,000) of insurance coverage plus an amount equal to any additional premium per one thousand dollars ($1,000) of insurance coverage charged to cover one or more hazardous occupations.

That insurance may be issued either with or without medical examinations.

SEC. 2. Section 10202.8 of the Insurance Code is amended to read:

10202.8. A group life policy conforming to all the following conditions may be issued to the trustees of a fund established by employer members of a trade association, or by a trade association maintained by contributions of such members for the sole benefit of their employees or, by one employer, or by two or more employers in the same industry, or by an association of employers in the same industry, or by one or more labor unions, or by one or more employers and one or more labor unions, or by an association of employers and one or more labor unions, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees either: (a) wholly from funds contributed by the employer or employers of the

insured persons, or by the union or unions, or by both; or (b) partly from such funds and partly from funds contributed by either all of the insured persons or by one or more classes thereof, or (c) wholly derived funds contributed by the insured persons.

(c) The policy must cover at the date of issue at least 50 persons.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection by the insured persons or by the trustees, employers or unions.

That insurance shall be issued with or without medical examination. For the purpose of this section the word "industry" shall include licensed professions, such as medicine, dentistry, pharmacy, law and accountancy.

SEC. 3. Section 10203.4 of the Insurance Code is amended to read:

10203.4. (a) Insurance under any group life insurance policy issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and 10203.7 may be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan that precludes individual selection and that shall not be in excess of 100 percent of the insurance on the life of the insured employee.

(b) "Dependent" includes the member's spouse and all unmarried children from birth through 20 years of age, or through 24 years of age if the dependent child is attending an educational institution, or a child 21 years of age or older who is both incapable of self-sustaining employment by reason of mental retardation or physical handicap and chiefly dependent upon the employee for support and maintenance if proof of the incapacity and dependency is furnished to the insurer by the employee within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(c) The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

SEC. 4. Section 10270.5 of the Insurance Code is amended to read:

10270.5. Group disability insurance is that form of disability insurance which conforms to all of the following conditions:

(a) Written under a master policy, issued to any of the following:

(1) The federal or state government, any federal or state agency, political subdivision or district, any public, governmental, or municipal corporation, any unit, agency, or department thereof, any corporation, copartnership or individual employer, or to the trustee of any association of employers, offering insurance to all the employees of the employer or of the employer members of the association or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than two such employees or those employees together

with their dependents or spouses for amounts of insurance based upon some plan which will preclude individual selection by the employee as to the amount of his or her insurance coverage thereunder.

(2) A principal eligible to have issued to him or her a policy of group life insurance under the provisions of Section 10203.7 and insuring not less than two agents as defined in that section and eligible thereunder to be insured, or those agents together with their dependents or spouses.

(3) Any association having a constitution and bylaws and formed and continuously maintained in good faith for purposes other than that of obtaining insurance, offering insurance to all the eligible members, or class of members, of the association and covering not less than two such members or those members together with their dependents or spouses and not less than 25 percent of all eligible members, or class of members, for amounts of insurance based upon some plan which will preclude individual selection by the member as to the amount of his or her insurance coverage thereunder. If the master policy is to be issued to cover members of labor unions, it may be issued to more than one such union.

(4) An association or a trust, or the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum membership of 100 persons, and shall be organized and maintained in good faith for purposes other than that of obtaining insurance. The association or associations shall have been in active existence for at least two years, and shall have a constitution and bylaws which require regular meetings not less than annually to further purposes of the members. The members shall have voting privileges and representation on the governing board or boards and committees. The policy shall be subject to the following requirements:

(A) The policy may insure members of the association or associations, and employees thereof.

(B) The premium for the policy shall be paid from funds contributed by the association or associations, or by members, or by both, or from funds contributed by the covered persons, or from both the covered persons and the association.

(C) A policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for the insurance shall insure all eligible persons, except those who, in writing, reject the coverage.

(5) Any trustees eligible to have issued to them a policy of group life insurance under the provisions of Section 10202.8 and insuring not less than two employees or members eligible thereunder to be insured or those employees or members together with their dependents or spouses.

(6) A school district or districts, the governing board of any school district or districts, a private or parochial school or schools, or the governing board or person in charge of the operation of any private or parochial school or schools, insuring not less than 50 pupils of the school or district and providing benefits to pupils or persons responsible for their support for death or dismemberment resulting from accident or for hospital, medical and surgical expenses resulting from accident to those pupils while they are in or on buildings or premises of the schools or districts during the time the pupils are required to be therein or thereon by reason of their attendance upon a college or a regular day school or any regular day school of a school district or districts or while being transported by the school or schools or district or districts to and from school or other place of instruction or while at any other place as an incident to school-sponsored activities and while being transported to, from and between these places.

(b) Transmission or collection of all premiums or premium contributions shall be performed by the policyholder, except where the policy specifies the persons other than the policyholder by whom the transmission or collection shall be made, and in one of the following situations:

(1) If the policy covers the employees of more than one employer, the insurer may collect premium contributions from individual employers whose employees are insured or may assist the policyholder in making these collections. If the employees of more than 100 such employers are covered under that policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for the collection.

(2) If the policy covers a group of governmental employees and the governmental unit paying those employees will not transmit their premium contribution after payroll deduction, the insurer may collect from the individual employees. If more than 100 of these employees are covered under that policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for the collection.

(3) If individual members of the group make payment of their share of the premium contribution to the insurer with or without billing or solicitation by the insurer during a period of temporary absence from active work of not exceeding 90 days, the payment may be received without the necessity of any separately stated charge by the insurer.

(4) If the policy covers the members of an association, the insurer may collect premium contributions from individual members or may assist the policyholder in making these collections. If more than 100 such members are covered under that policy, it shall state as a part of

the premium to be charged for the policy the amount to be charged by the insurer for the collection.

(c) There is issued and delivered in accordance with the policy provision required by subdivision (b) of Section 10270.6 an individual certificate setting forth the benefits and the exceptions under, and referring to, the master policy under which the certificate is issued.

Those certificates are not subject to the provisions of this chapter relating to the master policy, but the forms thereof shall be submitted to the commissioner for his or her approval and shall not be issued without approval of the forms in the manner provided in the case of the master policy.

CHAPTER 79

An act to amend Section 44230.5 of the Education Code, relating to teacher credentialing.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 44230.5 of the Education Code is amended to read:

44230.5. The commission shall establish a nonpersonally identifiable educator identification number for each educator to whom it issues a credential, certificate, permit, or other document authorizing that individual to provide a service in the public schools.

CHAPTER 80

An act to amend Section 16956 of the Corporations Code, relating to partnerships.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 16956 of the Corporations Code is amended to read:

16956. (a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total

aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership,

including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars ($10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars ($7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total

aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars ($7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the

withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding fifteen million dollars ($15,000,000).

(3) For claims based upon acts, errors, or omissions arising out of the practice of architecture, a registered limited liability partnership or foreign limited liability partnership providing architectural services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. On and after January 1, 2008, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars ($5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of

insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000). On and after January 1, 2008, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has

provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing architectural services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars ($10,000,000).

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), or subparagraph (D) of paragraph (3) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), OR SECTION 16956(a)(3)(D) OF THE CALIFORNIA CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership
2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), or 16956(a)(3)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars ($10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars ($15,000,000) in the case of a partnership providing legal services, or ten million dollars ($10,000,000), in the case of a partnership providing architectural services.
5. _____
Title of authorized person executing this form
6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), or subparagraph (D) of paragraph (3) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1), (2), or (3) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

CHAPTER 81

An act to add Section 5275 to the Business and Professions Code, relating to advertising.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 5275 is added to the Business and Professions Code, to read:

5275. Notwithstanding any other provision of this chapter, the director may not regulate noncommercial, protected speech contained within any advertising display authorized by, or exempted from, this chapter.

CHAPTER 82

An act to add Section 904.8 to the Penal Code, relating to grand juries.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 904.8 is added to the Penal Code, to read:

904.8. (a) Notwithstanding subdivision (a) of Section 904.6 or any other provision, in the County of Los Angeles, the presiding judge of the superior court, or the judge appointed by the presiding judge to supervise the grand jury, may, upon the request of the Attorney General or the district attorney or upon his or her own motion, order and direct the impanelment of up to two additional grand juries pursuant to this section.

(b) The presiding judge or the judge appointed by the presiding judge to supervise the grand jury shall select persons, at random, from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute an additional grand jury.

(c) Any additional grand juries that are impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge or the judge appointed by the presiding judge to supervise the grand jury. In no event shall more than two additional grand juries be impaneled pursuant to this section at the same time.

(d) Whenever additional grand juries are impaneled pursuant to this section, they may inquire into any matters that are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters that the regular grand jury is inquiring into at the time of its impanelment.

(e) It is the intent of the Legislature that, in the County of Los Angeles, all persons qualified for jury service shall have an equal opportunity to be considered for service as criminal grand jurors within the county, and that they have an obligation to serve, when summoned for that purpose. All persons selected for an additional criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population that is eligible for jury service in the county.

CHAPTER 83

An act to amend Section 4826 of, and to add and repeal Section 4836.1 of, the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 4826 of the Business and Professions Code is amended to read:

4826. A person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(a) Represents himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, bodily injury, or disease of animals.

(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the medicine, appliance, application, or treatment is administered by a registered veterinary technician or an unregistered assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832) or where the drug, including, but not limited to, a drug that is a controlled substance, is administered by a registered veterinary technician or an unregistered assistant pursuant to Section 4836.1. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(d) Performs a surgical or dental operation upon an animal.

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or Equidae.

(f) Uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry. This use shall be prima facie evidence of the intention to represent himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

SEC. 2. Section 4836.1 is added to the Business and Professions Code, to read:

4836.1. (a) Notwithstanding any other provision of law, a registered veterinary technician or an unregistered assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

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

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(c) This section shall remain in effect until January 1, 2012, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2012, deletes or extends that date.

CHAPTER 84

An act to amend Section 830.1 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county, any port warden or port police officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Butte, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lassen, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, and Tuolumne who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide specified counties as soon as possible with the necessary flexibility in operating their custodial facilities so that the counties may obtain efficient and effective staffing for the custodial facilities, to the benefit of both those residing within the facilities and

those residing outside of the facilities, it is necessary that this bill go into immediate effect.

CHAPTER 85

An act to amend Section 7091 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 7091 of the Business and Professions Code is amended to read:

7091. (a) (1) A complaint against a licensee alleging commission of any patent acts or omissions that may be grounds for legal action shall be filed in writing with the registrar within four years after the act or omission alleged as the ground for the disciplinary action.

(2) A disciplinary action against a licensee relevant to this subdivision shall be filed or a referral to the arbitration program outlined in Section 7085 shall be referred within four years after the patent act or omission alleged as the ground for disciplinary action or arbitration or within 18 months from the date of the filing of the complaint with the registrar, whichever is later.

(b) (1) A complaint against a licensee alleging commission of any latent acts or omissions that may be grounds for legal action pursuant to subdivision (a) of Section 7109 regarding structural defects, as defined by regulation, shall be filed in writing with the registrar within 10 years after the act or omission alleged as the ground for the disciplinary action.

(2) A disciplinary action against a licensee relevant to this subdivision shall be filed within 10 years after the latent act or omission alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later. As used in this subdivision "latent act or omission" means an act or omission that is not apparent by reasonable inspection.

(c) A disciplinary action alleging a violation of Section 7112 shall be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

(d) With respect to a licensee who has been convicted of a crime and, as a result of that conviction is subject to discipline under Section 7123,

the disciplinary action shall be filed within two years after the discovery of the conviction by the registrar or by the board.

(e) A disciplinary action regarding an alleged breach of an express, written warranty issued by the contractor shall be filed not later than 18 months from the expiration of the warranty.

(f) The proceedings under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

(g) Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety or cash deposit.

CHAPTER 86

An act to amend Sections 31485.9 and 31676.15 of the Government Code, relating to county employees' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2007. Filed with Secretary of State July 17, 2007.]

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

SECTION 1. Section 31485.9 of the Government Code is amended to read:

31485.9. (a) Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no resolution, ordinance, contract, or contract amendment under this chapter adopted on or after January 1, 2004, may provide any retirement benefits for some, but not all, general members of a county or district.

(b) No resolution, ordinance, contract, or contract amendment under this chapter adopted on or after January 1, 2004, may provide different retirement benefits for any subgroup of general members within a membership classification, including, but not limited to, bargaining units or unrepresented groups, unless benefits provided by statute for members hired on or after the date specified in the resolution are adopted by the county or district governing board, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2). All nonrepresented employees within similar

job classifications as employees in a bargaining unit subject to a memorandum of understanding, or supervisors and managers thereof, shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in the bargaining unit. No retirement contract amendment may be imposed by the employer in absence of a memorandum of understanding under the Meyers-Milias-Brown Act.

(c) This section does not preclude changing membership classification from one membership classification to another membership classification.

(d) This section shall not apply to retirement benefits for a member described in paragraph (2) of subdivision (d) of Section 31676.15.

SEC. 2. Section 31676.15 of the Government Code is amended to read:

31676.15. (a) Except as provided in subdivision (d), this section may be made applicable in any county which has implemented the provisions of Article 15.6 (commencing with Section 31855). This section shall be applicable if a majority of all the members of the board of supervisors vote to adopt a resolution so to do and a majority of the members of the affected class or classes voting at an election held during 1974, with more than 50 percent of the members participating, favor the termination of retirement benefits under social security. The resolution may specify a date subsequent to the date of adoption of the resolution as the operative date for this section.

(b) (1) Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.7454
50¼	.7561
50½	.7668
50¾	.7775
51	.7882
51¼	.7998
51½	.8114

51¾	.8230
52	.8346
52¼	.8472
52½	.8598
52¾	.8724
53	.8850
53¼	.8987
53½	.9125
53¾	.9262
54	.9399
54¼	.9549
54½	.9699
54¾	.9849
55	1.0000
55¼	1.0111
55½	1.0223
55¾	1.0335
56	1.0447
56¼	1.0597
56½	1.0747
56¾	1.0898
57	1.1048
57¼	1.1207
57½	1.1367
57¾	1.1526
58	1.1686
58¼	1.1855
58½	1.2025
58¾	1.2195
59	1.2365
59¼	1.2547
59½	1.2729
59¾	1.2911
60	1.3093
60¼	1.3221
60½	1.3350
60¾	1.3479
61	1.3608
61¼	1.3736
61½	1.3865
61¾	1.3994
62	1.4123
62¼	1.4251

62½	1.4380
62¾	1.4509
63	1.4638
63¼	1.4766
63½	1.4895
63¾	1.5024
64	1.5153
64¼	1.5281
64½	1.5410
64¾	1.5539
65	1.5668

(2) In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

(c) Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

(d) Notwithstanding the requirements of subdivision (a), the provisions of this section shall be applicable in a county of the 12th Class, as described in Sections 28020 and 28033, after the board of supervisors of the county adopts a resolution to do so. The provisions adopted pursuant to this subdivision may be made applicable without regard to the requirement of implementing Article 15.6 (commencing with Section 31855) or the requirement of terminating benefits under social security. The provisions adopted pursuant to this subdivision shall apply only to either of the following:

(1) Members first hired by the county on and after the date this section becomes operative in the county.

(2) Members represented by Service Employees International Union Local 521 whose retirement benefits were established pursuant to Section 31676.16 prior to the date this section becomes operative in the county.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that negotiated changes in retirement benefits for newly hired employees be fully implemented by the beginning of the 2007–08 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 87

An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. The sum of three million one hundred thousand dollars ($3,100,000) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of Calexico Hospital Management Group, LLC v. Nelsen Ford, et al. (Imperial County Superior Court, Case No. L00074). Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

SEC. 2. The sum of seventy-eight thousand dollars ($78,000) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of Foundation for Taxpayer and Consumer Rights v. Garamendi, (Los Angeles Superior Court Case No. BS086235, Second District Court of Appeal Case No. B173987). Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

SEC. 3. The sum of two hundred sixty-seven thousand dollars ($267,000) is hereby appropriated from the General Fund to the Department of Justice to pay for the judgment in the case of California Teachers Association v. Governor Schwarzenegger (Sacramento Superior Court, Case No. 05 CS01165). Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

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 pay judgment and settlement claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 88

An act to amend Section 1645 of the Health and Safety Code, relating to blood transfusions.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 1645 of the Health and Safety Code is amended to read:

1645. (a) Whenever there is a reasonable possibility, as determined by a physician and surgeon or doctor of podiatric medicine, that a blood transfusion may be necessary as a result of a medical or surgical procedure, the physician and surgeon or doctor of podiatric medicine, by means of a standardized written summary as most recently developed or revised by the State Department of Public Health pursuant to subdivision (e), shall inform, either directly or through a nurse practitioner, certified nurse midwife, or a physician assistant, who is licensed in the state and authorized to order a blood transfusion, the patient of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers. For purposes of this section, the term "autologous blood" includes, but is not limited to, predonation, intraoperative autologous transfusion, plasmapheresis, and hemodilution.

(b) The person who provided the patient with the standardized written summary pursuant to subdivision (a) shall note on the patient's medical record that the standardized written summary was given to the patient.

(c) Subdivisions (a) and (b) shall not apply when medical contraindications or a life-threatening emergency exists.

(d) When there is no life-threatening emergency and there are no medical contraindications, the physician and surgeon or doctor of podiatric medicine shall allow adequate time prior to the procedure for predonation to occur. Notwithstanding this chapter, if a patient waives allowing adequate time prior to the procedure for predonation to occur, a physician and surgeon or doctor of podiatric medicine shall not incur any liability for his or her failure to allow adequate time prior to the procedure for predonation to occur.

(e) The State Department of Public Health shall develop and annually review, and if necessary revise, a standardized written summary which explains the advantages, disadvantages, risks, and descriptions of autologous blood, and directed and nondirected homologous blood from

volunteer donors. These blood options shall include, but not be limited to, the blood options described in subdivision (a). The summary shall be written so as to be easily understood by a layperson.

(f) The Medical Board of California shall publish the standardized written summary prepared pursuant to subdivision (e) by the State Department of Public Health and shall distribute copies thereof, upon request, to physicians and surgeons and doctors of podiatric medicine. The Medical Board of California shall make the summary available for a fee not exceeding in the aggregate the actual costs to the State Department of Public Health and the Medical Board of California for developing, updating, publishing and distributing the summary. Physicians and surgeons and doctors of podiatric medicine shall purchase the written summary from the Medical Board of California for, or purchase or otherwise receive the written summary from the Web site of the board or any other entity for, distribution to their patients as specified in subdivision (a). Clinics, health facilities, and blood collection centers may purchase the summary if they desire.

(g) Any entity may reproduce the written summary prepared pursuant to subdivision (e) by the State Department of Public Health and distribute the written summary to physicians and surgeons and doctors of podiatric medicine.

CHAPTER 89

An act to amend Section 731 of the Streets and Highways Code, relating to state highways.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 731 of the Streets and Highways Code is amended to read:

731. Any vehicle or structure parked or placed wholly or partly within any state highway, for the purpose of selling the same or of selling therefrom or therein any article, service or thing, is a public nuisance and the department may immediately remove that vehicle or structure from within any highway.

Any person parking any vehicle or placing any structure wholly or partly within any highway for the purpose of selling that vehicle or structure, or of selling therefrom or therein any article or thing, and any

person selling, displaying for sale, or offering for sale any article or thing either in or from that vehicle or structure so parked or placed, and any person storing, servicing, repairing or otherwise working upon any vehicle, other than upon a vehicle which is temporarily disabled, is guilty of a misdemeanor.

The California Highway Patrol and all peace officers from local law enforcement agencies may enforce the provisions of this chapter with respect to highways under their respective jurisdiction and shall cooperate with the department to that end. Whenever any member of the California Highway Patrol or any peace officer from a local law enforcement agency removes a vehicle from a highway under the provisions of this section, then all of the provisions of Article 3 (commencing with Section 22850), Chapter 10, Division 11 of the Vehicle Code with reference to the removal of a vehicle from a highway shall be applicable.

This section does not prohibit a seller from taking orders or delivering any commodity from a vehicle on that part of any state highway immediately adjacent to the premises of the purchaser; prohibit an owner or operator of a vehicle, or a mechanic, from servicing, repairing or otherwise working upon any vehicle which is temporarily disabled in a manner and to an extent that it is impossible to avoid stopping that vehicle within the highway; or prohibit coin-operated public telephones and related telephone structures in park and ride lots, vista points, and truck inspection facilities within state highway rights-of-way for use by the general public.

CHAPTER 90

An act to amend Sections 33080.1 and 33490 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 33080.1 of the Health and Safety Code is amended to read:

33080.1. Every redevelopment agency shall submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body within 30 days of receipt of that audit report. In addition, every redevelopment agency shall present an annual report

to its legislative body within six months of the end of the agency's fiscal year. The annual report shall contain all of the following:

(a) (1) An independent financial audit report for the previous fiscal year. "Audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency, including all financial activities with moneys required to be held in a separate Low and Moderate Income Housing Fund pursuant to Section 33334.3. This audit shall be conducted by a certified public accountant or public accountant, licensed by the State of California, in accordance with Government Auditing Standards adopted by the Comptroller General of the United States. The audit report shall meet, at a minimum, the audit guidelines prescribed by the Controller's office pursuant to Section 33080.3 and also include a report on the agency's compliance with laws, regulations, and administrative requirements governing activities of the agency, and a calculation of the excess surplus in the Low and Moderate Income Housing Fund as defined in subdivision (g) of Section 33334.12.

(2) However, the legislative body may elect to omit from inclusion in the audit report any distinct activity of the agency that is funded exclusively by the federal government and that is subject to audit by the federal government.

(b) A fiscal statement for the previous fiscal year that contains the information required pursuant to Section 33080.5.

(c) A description of the agency's activities in the previous fiscal year affecting housing and displacement that contains the information required by Sections 33080.4 and 33080.7.

(d) A description of the agency's progress, including specific actions and expenditures, in alleviating blight in the previous fiscal year.

(e) A list of, and status report on, all loans made by the redevelopment agency that are fifty thousand dollars ($50,000) or more, that in the previous fiscal year were in default, or not in compliance with the terms of the loan approved by the redevelopment agency.

(f) A description of the total number and nature of the properties that the agency owns and those properties the agency has acquired in the previous fiscal year.

(g) A list of the fiscal years that the agency expects each of the following time limits to expire:

(1) The time limit for the commencement for eminent domain proceedings to acquire property within the project area.

(2) The time limit for the establishment of loans, advances, and indebtedness to finance the redevelopment project.

(3) The time limit for the effectiveness of the redevelopment plan.

(4) The time limit to repay indebtedness with the proceeds of property taxes.

(h) Any other information that the agency believes useful to explain its programs, including, but not limited to, the number of jobs created and lost in the previous fiscal year as a result of its activities.

SEC. 2. Section 33490 of the Health and Safety Code is amended to read:

33490. (a) (1) (A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33413. After adoption of the first implementation plan, the parts of the implementation plan that address Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33413 shall be adopted every five years either in conjunction with the housing element cycle or the implementation plan cycle. The agency may amend the implementation plan after conducting a public hearing on the proposed amendment. If an action attacking the adoption, approval, or validity of a redevelopment plan adopted prior to January 1, 1994, has been brought pursuant to Chapter 5 (commencing with Section 33500), the first implementation plan required pursuant to this section shall be adopted within six months after a final judgment or order has been entered. Subsequent implementation plans required pursuant to this section shall be adopted pursuant to the terms of this section, and as if the first implementation plan had been adopted on or before December 31, 1994.

(B) Adoption of an implementation plan shall not constitute an approval of any specific program, project, or expenditure and shall not change the need to obtain any required approval of a specific program, project, or expenditure from the agency or community. The adoption of an implementation plan shall not constitute a project within the meaning of Section 21000 of the Public Resources Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In

addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2) (A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Section 33333.10, if applicable, and Sections 33334.2, 33334.4, and 33334.6, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(iii) A description of how the housing program will implement the requirement for expenditures of moneys in the Low and Moderate Income Housing Fund over a 10-year period for various groups as required by Section 33334.4. For project areas to which subdivision (b) of Section 33413 applies, the 10-year period within which Section 33334.4 is required to be implemented shall be the same 10-year period within which subdivision (b) of Section 33413 is required to be implemented. Notwithstanding the first sentence of Section 33334.4 and the first sentence of this clause, in order to allow these two 10-year time periods to coincide for the first time period, the time to implement the requirements of Section 33334.4 shall be extended two years, and project areas in existence on December 31, 1993, shall implement the requirements of Section 33334.4 on or before December 31, 2014, and each 10 years thereafter rather than December 31, 2012. For project areas to which subdivision (b) of Section 33413 does not apply, the requirements of Section 33334.4 shall be implemented on or before December 31, 2014, and each 10 years thereafter.

(iv) This requirement to include a description of how the housing program will implement Section 33334.4 in the implementation plan shall apply to implementation plans adopted pursuant to subdivision (a) on or after December 31, 2002.

(B) For each project area to which subdivision (b) of Section 33413 applies, the section addressing the agency developed and project area housing shall contain:

(i) Estimates of the number of new, substantially rehabilitated or price restricted residential units to be developed or purchased within one or more project areas, both over the life of the plan and during the next 10 years.

(ii) Estimates of the number of units of very low, low-, and moderate-income households required to be developed within one or more project areas in order to meet the requirements of paragraph (2) of subdivision (b) of Section 33413, both over the life of the plan and during the next 10 years.

(iii) The number of units of very low, low-, and moderate-income households which have been developed within one or more project areas which meet the requirements of paragraph (2) of subdivision (b) of Section 33413.

(iv) Estimates of the number of agency developed residential units which will be developed during the next five years, if any, which will be governed by paragraph (1) of subdivision (b) of Section 33413.

(v) Estimates of the number of agency developed units for very low, low-, and moderate-income households which will be developed by the agency during the next five years to meet the requirements of paragraph (1) of subdivision (b) of Section 33413.

(C) The section addressing Section 33333.10, if applicable, and Section 33334.4 shall contain all of the following:

(i) The number of housing units needed for very low income persons, low-income persons, and moderate-income persons as each of those needs have been identified in the most recent determination pursuant to Section 65584 of the Government Code, and the proposed amount of expenditures from the Low and Moderate Income Housing Fund for each income group during each year of the implementation plan period.

(ii) The total population of the community and the population under 65 years of age as reported in the most recent census of the United States Census Bureau.

(iii) A housing program that provides a detailed schedule of actions the agency is undertaking or intends to undertake to ensure expenditure of the Low and Moderate Income Housing Fund in the proportions required by Section 33333.10, if applicable, and Section 33334.4.

(iv) For the previous implementation plan period, the amounts of Low and Moderate Income Housing Fund moneys utilized to assist units affordable to, and occupied by, extremely low income households, very low income households, and low-income households; the number, the location, and level of affordability of units newly constructed with other

locally controlled government assistance and without agency assistance and that are required to be affordable to, and occupied by, persons of low, very low, or extremely low income for at least 55 years for rental housing or 45 years for homeownership housing, and the amount of Low and Moderate Income Housing Fund moneys utilized to assist housing units available to families with children, and the number, location, and level of affordability of those units.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units.

(4) For a project area that is within six years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of the implementation plan addressing the housing responsibilities shall specifically address the ability of the agency to comply, prior to the time limit on the effectiveness of the redevelopment plan, with subdivision (a) of Section 33333.8, subdivision (a) of Section 33413 with respect to replacement dwelling units, subdivision (b) of Section 33413 with respect to project area housing, and the disposition of the remaining moneys in the Low and Moderate Income Housing Fund.

(5) The implementation plan shall identify the fiscal year that the agency expects each of the following time limits to expire:

(A) The time limit for the commencement for eminent domain proceedings to acquire property within the project area.

(B) The time limit for the establishment of loans, advances, and indebtedness to finance the redevelopment project.

(C) The time limit for the effectiveness of the redevelopment plan.

(D) The time limit to repay indebtedness with the proceeds of property taxes.

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment

project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. For a project area that is within three years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall specifically address those items in paragraph (4) of subdivision (a). An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code, mailed at least three weeks in advance to all persons and agencies that have requested notice, and posted in at least four permanent places within the project area for a period of three weeks. Publication, mailing, and posting shall be completed not less than 10 days prior to the date set for hearing.

CHAPTER 91

An act to amend Sections 1789.13 and 1789.25 of the Civil Code, relating to credit service organizations.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 1789.13 of the Civil Code is amended to read:

1789.13. A credit services organization, and its salespersons, agents, representatives, and independent contractors who sell or attempt to sell the services of a credit services organization, shall not do any of the following:

(a) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for or on behalf of the buyer.

(b) Fail to perform the agreed services within six months following the date the buyer signs the contract for those services.

(c) Charge or receive any money or other valuable consideration for referral of the buyer to a retail seller or other credit grantor who will or may extend credit to the buyer, if either of the following apply:

(1) The credit which is or will be extended to the buyer (A) is upon substantially the same terms as those available to the general public or (B) is upon substantially the same terms that would have been extended to the buyer without the assistance of the credit services organization.

(2) The money or consideration is paid by the credit grantor or is derived from the buyer's payments to the credit grantor for any costs, fees, finance charges, or principal.

(d) Make, or counsel or advise any buyer to make, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit, such as statements concerning a buyer's identification, home address, creditworthiness, credit standing, or credit capacity.

(e) Remove, or assist or advise the buyer to remove, adverse information from the buyer's credit record which is accurate and not obsolete.

(f) Create, or assist or advise the buyer to create, a new credit record by using a different name, address, social security number, or employee identification number.

(g) Make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization, including either of the following:

(1) Guaranteeing or otherwise stating that the organization is able to delete an adverse credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, that this can be done only if the credit history is inaccurate or obsolete and is not claimed to be accurate by the creditor who submitted the information.

(2) Guaranteeing or otherwise stating that the organization is able to obtain an extension of credit, regardless of the buyer's previous credit problems or credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, the eligibility requirements for obtaining an extension of credit.

(h) Engage, directly or indirectly, in any act, practice, or course of business which operates or would operate as a fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization.

(i) Advertise or cause to be advertised, in any manner, the services of the credit services organization, without being registered with the Department of Justice.

(j) Fail to maintain an agent for service of process in this state.

(k) Transfer or assign its certificate of registration.

(*l*) Submit a buyer's dispute to a consumer credit reporting agency without the buyer's knowledge.

(m) Use a consumer credit reporting agency's telephone system or toll-free telephone number to represent the caller as the buyer in

submitting a dispute of a buyer or requesting disclosure without prior authorization of the buyer.

(n) Directly or indirectly extend credit to any buyer.

(o) Refer any buyer to a credit grantor that is related to the credit services organization by any common ownership, management, or control, including any common owner, director, or officer.

(p) Refer any buyer to a credit grantor for which the credit services organization provides, or arranges for a third party to provide, any services related to the extension of credit such as underwriting, billing, payment processing, or debt collection.

(q) Provide a credit grantor with any assurance that any portion of an extension of credit to a buyer referred by the credit services organization will be repaid, including providing a guaranty, letter of credit, or agreement to acquire any part of the credit grantor's financial interest in the extension of credit.

(r) Use any scheme, device, or contrivance to evade the prohibitions contained in this section.

SEC. 2. Section 1789.25 of the Civil Code is amended to read:

1789.25. (a) Every credit services organization shall file a registration application with, and receive a certificate of registration from, the Department of Justice before conducting business in this state. The Department of Justice shall not issue a certificate of registration until the bond required by Section 1789.18 has been filed with the office of the Secretary of State and the department establishes that the organization seeking a certificate satisfies the requirements of subdivision (f). The application shall be accompanied by a registration fee of one hundred dollars ($100). The registration application shall contain all of the following information:

(1) The name and address where business is actually conducted of the credit services organization.

(2) The names, addresses, and driver's license numbers of any and all persons who directly or indirectly own or control 10 percent or more of the outstanding shares of stock in the credit services organization.

(3) Either of the following:

(A) A full and complete disclosure of any litigation commenced against the credit services organization or any resolved or unresolved complaint that relates to the operation of the credit services organization and that is filed with the Attorney General or any other governmental authority of this state, any other state, or the federal government. With respect to each resolved complaint identified by the disclosure, the disclosure shall include a brief description of the resolution.

(B) An acknowledged declaration under penalty of perjury stating that no litigation has been commenced and no unresolved complaint

relating to the operation of the organization has been filed with the Attorney General or any other governmental authority of this state, any other state, or the federal government.

(4) Other information that the Department of Justice requires, either at the time of application or thereafter.

(b) The Department of Justice may conduct an investigation to verify the accuracy of the registration application. If the application involves investigation outside this state, the applicant credit services organization may be required by the Department of Justice to advance sufficient funds to pay the actual expenses of the investigation. Any nonresident applying for registration under this section shall designate and maintain a resident of this state as the applicant's agent for the purpose of receipt of service of process.

(c) Each credit services organization shall notify the Department of Justice in writing within 30 days after the date of a change in the information required by subdivision (a), except that 30 days' advance notice and approval by the Department of Justice shall be required before changing the corporate name or address, or persons owning more than 10 percent of the shares of stock in the organization. Each credit services organization registering under this section may use no more than one fictitious or trade name and shall maintain a copy of the registration application in its files. The organization shall allow a buyer to inspect the registration application upon request.

(d) A certificate of registration issued pursuant to this section shall expire annually on the last day of December but may be renewed by filing a renewal application accompanied by a fee not to exceed the Department of Justice's costs of administration.

(e) The credit services organization shall attach to the registration statement a copy of the contract or contracts which the credit services organization intends to execute with its customers and a copy of the required bond.

(f) The Department of Justice shall not issue a certificate of registration under this title to any person who has engaged in, or proposes to engage in, any activity that is in violation of Section 1789.13, any law prohibiting the use of untrue or misleading statements, or any law related to the extension of credit to persons for personal, family, or household 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 92

An act to amend Section 11125.4 of the Government Code, relating to public meetings.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 11125.4 of the Government Code is amended to read:

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by

newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

CHAPTER 93

An act to add Section 11519.1 to the Government Code, and to amend Section 11703.2 of the Vehicle Code, relating to administrative hearings.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 11519.1 is added to the Government Code, to read:

11519.1. (a) A decision rendered against a licensee under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code may include an order of restitution for any financial loss or damage found to have been suffered by a person in the case.

(b) The failure to make the restitution in accordance with the terms of the decision is separate grounds for the Department of Motor Vehicles to refuse to issue a license under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code, and constitutes a violation of the terms of any applicable probationary order in the decision.

(c) Nothing in this section is intended to limit or restrict actions, remedies, or procedures otherwise available to an aggrieved party pursuant to any other provision of law.

SEC. 2. Section 11703.2 of the Vehicle Code is amended to read:

11703.2. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, when the department determines that either of the following apply to the applicant:

(a) An outstanding and unsatisfied final judgment rendered against the applicant exists in connection with the purchase, sale, or lease of any vehicle.

(b) An outstanding and unsatisfied restitution order issued against the applicant under subdivision (a) of Section 11519.1 of the Government Code exists.

CHAPTER 94

An act to amend Section 66013 of the Government Code, relating to development projects.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 66013 of the Government Code is amended to read:

66013. (a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or

charge imposed in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

(b) As used in this section:

(1) "Sewer connection" means the connection of a structure or project to a public sewer system.

(2) "Water connection" means the connection of a structure or project to a public water system, as defined in subdivision (f) of Section 116275 of the Health and Safety Code.

(3) "Capacity charge" means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "capacity charge" does not include a commodity charge.

(4) "Local agency" means a local agency as defined in Section 66000.

(5) "Fee" means a fee for the physical facilities necessary to make a water connection or sewer connection, including, but not limited to, meters, meter boxes, and pipelines from the structure or project to a water distribution line or sewer main, and that does not exceed the estimated reasonable cost of labor and materials for installation of those facilities.

(6) "Public facilities" means public facilities as defined in Section 66000.

(c) A local agency receiving payment of a charge as specified in paragraph (3) of subdivision (b) shall deposit it in a separate capital facilities fund with other charges received, and account for the charges in a manner to avoid any commingling with other moneys of the local agency, except for investments, and shall expend those charges solely for the purposes for which the charges were collected. Any interest income earned from the investment of moneys in the capital facilities fund shall be deposited in that fund.

(d) For a fund established pursuant to subdivision (c), a local agency shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year:

(1) A description of the charges deposited in the fund.

(2) The beginning and ending balance of the fund and the interest earned from investment of moneys in the fund.

(3) The amount of charges collected in that fiscal year.

(4) An identification of all of the following:

(A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.

(B) Each public improvement on which charges were expended that was completed during that fiscal year.

(C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an interfund loan, shall include the date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

(e) The information required pursuant to subdivision (d) may be included in the local agency's annual financial report.

(f) The provisions of subdivisions (c) and (d) shall not apply to any of the following:

(1) Moneys received to construct public facilities pursuant to a contract between a local agency and a person or entity, including, but not limited to, a reimbursement agreement pursuant to Section 66003.

(2) Charges that are used to pay existing debt service or which are subject to a contract with a trustee for bondholders that requires a different accounting of the charges, or charges that are used to reimburse the local agency or to reimburse a person or entity who advanced funds under a reimbursement agreement or contract for facilities in existence at the time the charges are collected.

(3) Charges collected on or before December 31, 1998.

(g) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion imposing a fee or capacity charge subject to this section shall be brought pursuant to Section 66022.

(h) Fees and charges subject to this section are not subject to the provisions of Chapter 5 (commencing with Section 66000), but are subject to the provisions of Sections 66016, 66022, and 66023.

(i) The provisions of subdivisions (c) and (d) shall only apply to capacity charges levied pursuant to this section.

CHAPTER 95

An act to amend Section 11571.1 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 20, 2007. Filed with
Secretary of State July 20, 2007.]

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

SECTION 1. Section 11571.1 of the Health and Safety Code is amended to read:

11571.1. (a) To effectuate the purposes of this article, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to a controlled substance purpose. In filing this action, which shall be based upon an arrest report or on another action or report by a law enforcement agency, the city prosecutor or city attorney shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall also include on the bottom of its front page, in at least 14-point bold type, the following:

"Notice to Tenant: This notice is not a notice of eviction. However, you should know that an eviction action may soon be filed in court against you for suspected drug activity, as described above. You should call (insert name and telephone number of the city attorney or prosecutor pursuing the action) or legal aid to stop the eviction action if any of the following is applicable:

(i) You are not the person named in this notice.

(ii) The person named in the notice does not live with you.

(iii) The person named in the notice has permanently moved.

(iv) You do not know the person named in the notice.

(v) You have any other legal defense or legal reason to stop the eviction action.

A list of legal assistance providers is attached to this notice. Some provide free legal help if you are eligible."

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars ($600).

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) Nothing in this article shall prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to drug abatement. Where local laws duplicate or supplement this article, this article shall be construed as providing alternative remedies and not preempting the field.

(5) Nothing in this article shall prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383, if the offense occurs on the subject real property and is documented by the observations of a peace officer.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall only apply to the following courts:

(1) In the County of Los Angeles, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles, the City of Long Beach, or the City of Palmdale.

(2) In the County of San Diego, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of San Diego.

(3) In the County of Alameda, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Oakland.

(g) (1) The city attorney and city prosecutor of each participating jurisdiction shall provide to the Judicial Council the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of cases filed by an owner, upon notice.

(C) The number of assignments executed by owners to the city attorney or city prosecutor.

(D) The number of three-day, 30-day, or 60-day notices issued by the city attorney or city prosecutor.

(E) The number of cases filed by the city attorney or city prosecutor.

(F) The number of times that an owner is joined as a defendant pursuant to this section.

(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:

(i) The number of judgments ordering an eviction or partial eviction (specify whether default, stipulated, or following trial).

(ii) The number of cases, listed by separate categories, in which the case was withdrawn or in which the tenant prevailed.

(iii) The number of other dispositions (specify disposition).

(iv) The number of defendants represented by counsel.

(v) Whether the case was a trial by the court or a trial by a jury.

(vi) Whether an appeal was taken, and, if so, the result of the appeal.

(vii) The number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.

(H) As to each case in which a notice was issued, but no case was filed, the following information:

(i) The number of instances in which a tenant voluntarily vacated the unit.

(ii) The number of instances in which a tenant vacated a unit prior to the providing of the notice.

(iii) The number of cases in which the notice provided pursuant to subdivision (a) was erroneously sent to the tenant. (List reasons, if known, for the erroneously sent notice, such as reliance on information on the suspected controlled substance law violator's name or address that was incorrect; clerical error; or any other reason.)

(iv) The number of other resolutions (specify resolution).

(2) (A) Information compiled pursuant to this section shall be reported annually to the Judicial Council on or before January 30 of each year.

(B) The Judicial Council shall thereafter submit a brief report to the Senate and Assembly Committees on the Judiciary once on or before April 15, 2007, and once on or before April 15, 2009, summarizing the information collected pursuant to this section and evaluating the merits of the pilot programs established by 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 deletes or extends that date.

CHAPTER 96

An act to amend Sections 113709, 113725.1, 113751, 113789, 113818, 113907, 113909, 113945.1, 113947.1, 113947.3, 113949.1, 113949.2, 113949.5, 113961, 113967, 113977, 113982, 113984, 113984.1, 113986, 113996, 114000, 114029, 114035, 114039, 114039.1, 114039.4, 114039.5, 114060, 114074, 114091, 114099.2, 114099.3, 114149.1, 114185.1, 114192, 114245.1, 114254, 114257, 114259.1, 114259.4, 114259.5, 114271, 114276, 114299, 114311, 114323, 114325, 114326, 114358, 114371, 114380, 114393, 114417.1, 114417.6, and 114419 of, to repeal Sections 114056 and 114155 of, and to repeal and add Section 113953.4 of, the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 113709 of the Health and Safety Code is amended to read:

113709. Nothing in this part shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, or from regulating the provision of consumer toilet and handwashing facilities.

SEC. 2. Section 113725.1 of the Health and Safety Code is amended to read:

113725.1. A copy of the most recent routine inspection report conducted to assess compliance with this part shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party.

SEC. 3. Section 113751 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

113751. "Commissary" means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

(a) Food, containers, or supplies are stored.

(b) Food is prepared or prepackaged for sale or service at other locations.

(c) Utensils are cleaned.

(d) Liquid and solid wastes are disposed, or potable water is obtained.

SEC. 4. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit

association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, if no food or beverage is offered for sale for onsite consumption.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

SEC. 5. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, blending, or assembly of nonprepackaged food.

(2) Bulk dispensing of nonpotentially hazardous beverages.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Slicing and chopping of food on a heated cooking surface during the cooking process.

(5) Cooking and seasoning to order.

(b) "Limited food preparation" does not include slicing and chopping unless it is on the heated cooking surface, thawing, cooling of cooked potentially hazardous food, grinding raw ingredients or potentially hazardous food, reheating for hot holding, washing of foods, or cooking of potentially hazardous foods for later use.

SEC. 6. Section 113907 of the Health and Safety Code is amended to read:

113907. "Shellfish certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to law or to the provisions of the National Shellfish Sanitation Program.

SEC. 7. Section 113909 of the Health and Safety Code is amended to read:

113909. "Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers.

SEC. 8. Section 113945.1 of the Health and Safety Code is amended to read:

113945.1. Except as specified in Section 113984.1, the person in charge shall ensure that persons unnecessary to the food facility operation shall not be allowed in the food preparation, food storage, or warewashing areas.

SEC. 9. Section 113947.1 of the Health and Safety Code is amended to read:

113947.1. (a) Food facilities that prepare, handle, or serve nonprepackaged potentially hazardous food, except temporary food facilities, shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3. There shall be at least one food safety certified owner or employee at each food facility. No certified person at a food facility may serve at any other food facility as the person required to be certified pursuant to this subdivision. The certified owner or employee need not be present at the food facility during all hours of operation.

(b) Food facilities that are not subject to the requirements of subdivision (a) that prepare, handle, or serve nonprepackaged, nonpotentially hazardous foods, except temporary food facilities, shall do one of the following:

(1) Have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3.

(2) Demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties.

(c) On and after July 1, 2007, temporary food facilities that prepare, handle, or serve nonprepackaged food shall have an owner or person in charge who can demonstrate to the enforcement officer that he or she has an adequate knowledge of food safety principles as they relate to the specific food facility operation.

(d) (1) For the purposes of this section, multiple contiguous food facilities permitted within the same site and under the same management, ownership, or control shall be deemed to be one food facility, notwithstanding the fact that the food facilities may operate under separate permits.

(2) This subdivision shall not apply to the premises of a licensed winegrower or brandy manufacturer utilized for wine tastings conducted pursuant to Section 23356.1 of the Business and Professions Code of wine or brandy produced or bottled by, or produced and prepackaged for, that licensee when use is limited to wine tasting.

(e) A food facility that commences operation, changes ownership, or no longer has a certified owner or employee pursuant to this section shall have 60 days to comply with this subdivision.

(f) The responsibilities of a certified owner or employee at a food facility or an owner or person in charge of a temporary food facility described in subdivision (c) shall include the safety of food preparation and service, including ensuring that all employees who handle, or have responsibility for handling, nonprepackaged foods of any kind, have sufficient knowledge to ensure the safe preparation or service of the food, or both. The nature and extent of the knowledge that each employee is required to have may be tailored, as appropriate, to the employee's duties related to food safety issues.

(g) The food safety certificate issued pursuant to Section 113947.3 shall be retained on file at the food facility at all times, and shall be made available for inspection by the enforcement officer.

(h) Certified individuals shall be recertified every five years by passing an approved and accredited food safety certification examination.

(i) A food safety program that was not in effect prior to January 1, 1999, shall not be enacted, adopted, implemented, or enforced, unless the program fully conforms to the requirements of this part.

SEC. 10. Section 113947.3 of the Health and Safety Code is amended to read:

113947.3. (a) Food safety certification shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization must be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b) (1) Within 12 months after the effective date of this part, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2) At least one of the accredited food safety certification examinations shall cost no more than sixty dollars ($60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

SEC. 11. Section 113949.1 of the Health and Safety Code is amended to read:

113949.1. (a) When a local health officer is notified of an illness that can be transmitted by food in a food facility or by a food employee of a food facility, the local health officer shall inform the local enforcement agency. The local health officer or the local enforcement agency, or both, shall notify the person in charge of the food facility and shall investigate conditions and may, after the investigation, take appropriate action, and for reasonable cause, require any or all of the following measures to be taken:

(1) The immediate restriction or exclusion of any employee from the affected food facility.

(2) The immediate closing of the food facility until, in the opinion of the local enforcement agency, the identified danger of disease outbreak has been addressed. Any appeal of the closure shall be made in writing within five days to the applicable local enforcement agency.

(3) Any medical evaluation of any employee, including any laboratory test or procedure, that may be indicated. If an employee refuses to participate in a medical evaluation, the local enforcement agency may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical evaluation or laboratory test or procedure shows that the food employee is not infectious.

(b) For purposes of this section, "illness" means a condition caused by any of the following infectious agents:

(1) Salmonella typhi.
(2) Salmonella spp.
(3) Shigella spp.
(4) Entamoeba histolytica.
(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.
(6) Hepatitis A virus.
(7) Norovirus.
(8) Other communicable diseases that are transmissible through food.

SEC. 12. Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or employee shall require food employees to report the following to the person in charge:

(a) If an employee is diagnosed with an illness due to one of the following:

(1) Salmonella typhi.

(2) Salmonella spp.

(3) Shigella spp.

(4) Entamoeba histolytica.

(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a lesion or wound that is open or draining and is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover.

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover.

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

SEC. 13. Section 113949.5 of the Health and Safety Code is amended to read:

113949.5. (a) The person in charge shall notify the local enforcement agency when notified that the food employee has been diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(b) A person in charge shall notify the local enforcement agency when he or she is aware that two or more food employees are concurrently experiencing symptoms associated with an acute gastrointestinal illness.

SEC. 14. Section 113953.4 of the Health and Safety Code is repealed.

SEC. 15. Section 113953.4 is added to the Health and Safety Code, to read:

113953.4. (a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall meet either one of the following requirements:

(1) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness.

(2) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Antiseptic Health-Care Drug Products as an antiseptic handwash.

(b) In addition to the requirements of subdivision (a), the hand antiseptic used as a topical application, hand antiseptic solution used as a hand dip, or hand antiseptic soap shall meet either one of the following requirements:

(1) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles.

(2) Comply with, and be listed in, either of the following federal regulations:

(A) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a Food Additive with conditions of safety use.

(B) 21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

(c) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap that meets the requirements of subdivisions (a) and (b) shall be applied only to hands that are cleaned in a manner described in Section 113953.3.

(d) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the requirements of subdivision (b), the hand antiseptic or hand antiseptic solution used as a hand dip may be used only if its use is either of the following:

(1) Followed by thorough hand rinsing in clean water before hand contact with food directly or with the use of gloves.

(2) Limited to situations where bare hands do not come in direct contact with food.

(e) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/l chlorine.

SEC. 16. Section 113961 of the Health and Safety Code is amended to read:

113961. (a) Food employees shall minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form.

(b) Food employees shall use utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers.

However, food employees may assemble or place on tableware or in other containers ready-to-eat food in an approved food preparation area without using utensils if hands are cleaned in accordance with Section 113953.3.

(c) Food that has been served to the consumer and then wrapped or prepackaged at the direction of the consumer shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

SEC. 17. Section 113967 of the Health and Safety Code is amended to read:

113967. No employee shall commit any act that may cause the contamination or adulteration of food, food-contact surfaces, or utensils.

SEC. 18. Section 113977 of the Health and Safety Code is amended to read:

113977. (a) Except as specified in subdivision (b), an employee shall eat, drink, or use any form of tobacco only in designated areas where contamination of nonprepackaged food; clean equipment, utensils, and linens; unwrapped single-use articles; or other items needing protection cannot result.

(b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of the employee's hands, the container, nonprepackaged food, and food-contact surfaces.

SEC. 19. Section 113982 of the Health and Safety Code is amended to read:

113982. (a) Food shall be transported in a manner that meets the following requirements:

(1) The interior floor, sides, and top of the food holding area shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning.

(2) The food holding area shall be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3) Approved methods shall be used to maintain potentially hazardous food at the required holding temperatures.

(b) This section shall not apply to the transportation of prepackaged nonpotentially hazardous foods.

SEC. 20. Section 113984 of the Health and Safety Code is amended to read:

113984. (a) Adequate and suitable counter space shall be provided for all food preparation operations.

(b) Except as specified in subdivision (c), food preparation shall be conducted within a fully enclosed food facility.

(c) Limited food preparation shall be conducted within a food compartment or as approved by the enforcement agency. All food shall

be thawed, washed, sliced, and cooled within an approved fully enclosed food facility.

(d) Food shall be prepared with suitable utensils and on surfaces that, prior to use, have been cleaned, rinsed, and sanitized as specified in Section 114117 to prevent cross-contamination.

(e) Overhead protection shall be provided above all food preparation, food display, and food storage areas.

SEC. 21. Section 113984.1 of the Health and Safety Code is amended to read:

113984.1. Consumer access to a food facility through the food preparation area is permissible, at the discretion of the permitholder, if ready-to-eat foods are prepared in approved areas separated from sources of contamination by a space of at least three feet from the consumer and in areas that are separate from raw or undercooked foods. The route of access shall be separated from the required space by a rail or wall at least three feet high or otherwise clearly delineated.

SEC. 22. Section 113986 of the Health and Safety Code is amended to read:

113986. (a) Food shall be protected from cross-contamination by utilizing one or more of the following methods:

(1) Separating raw food of animal origin during transportation, storage, preparation, holding, and display from raw ready-to-eat food, including other raw food of animal origin such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as produce, and cooked ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw foods of animal origin from each other during transportation, storage, preparation, holding, and display in the following ways:

(A) Using separate equipment for each type.

(B) Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C) Preparing each type of food at different times or in separate areas.

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened.

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(b) Subparagraph (D) of paragraph (2) of subdivision (a) of this section shall not apply to any of the following:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption.

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.

(3) Whole, uncut, processed meats, such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks.

(4) Food being cooled as specified in subdivision (b) of Section 114002.1.

(5) Shellstock.

SEC. 23. Section 113996 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

113996. (a) Except during preparation, cooking, cooling, transportation to or from a retail food facility for a period of less than 30 minutes, or when time is used as the public health control as specified under Section 114000, or as otherwise provided in this section, potentially hazardous food shall be maintained at or above 135°F, or at or below 41°F.

(b) Roasts cooked to a temperature and for a time specified in subdivision (b) of Section 114004 may be held at a temperature of 130°F.

(c) The following foods may be held at or below 45°F:

(1) Raw shell eggs.

(2) Unshucked live molluscan shellfish.

(3) Pasteurized milk and pasteurized milk products in original, sealed containers.

(4) Potentially hazardous foods held for dispensing in serving lines and salad bars during periods not to exceed 12 hours in any 24-hour period or held in vending machines. For purposes of this subdivision, a display case shall not be deemed to be a serving line.

(5) Potentially hazardous foods held for sampling at a certified farmers' market.

(6) Potentially hazardous foods held during transportation.

SEC. 24. Section 114000 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114000. (a) Except as specified in subdivision (b), if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, the following shall occur:

(1) The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control.

(2) The food shall be cooked and served, served if ready-to-eat, or discarded within four hours from the point in time when the food is removed from temperature control.

(3) The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.

(4) Written procedures shall be maintained in the food facility and made available to the enforcement agency upon request, that ensure compliance with this section and Section 114002, for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b) Time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs in the following food facilities:

(1) Licensed health care facilities.

(2) Public and private school cafeterias.

SEC. 25. Section 114029 of the Health and Safety Code is amended to read:

114029. (a) Molluscan shellfish shall be obtained from sources according to law or the requirements specified in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

(b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(c) Molluscan shellfish that are recreationally caught shall not be received for sale or service.

SEC. 26. Section 114035 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114035. (a) Food shall be inspected as soon as practicable upon receipt and prior to any use, storage, or resale.

(b) Food shall be accepted only if the inspection conducted upon receipt determines that the food satisfies all of the following:

(1) Was prepared by and received from approved sources.

(2) Is received in a wholesome condition.

(3) Is received in packages that are in good condition and that protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(4) Is in containers and on pallets that are not infested with vermin or otherwise contaminated.

(c) Potentially hazardous food shall be inspected for signs of spoilage and randomly checked for adherence to the temperature requirements as specified in Section 113996.

SEC. 27. Section 114039 of the Health and Safety Code is amended to read:

114039. (a) Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish, and a "sell by" date or a "best if used by" date for packages with a capacity of less than one-half gallon, or the date shucked for packages with a capacity of one-half gallon or more.

(b) A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information required by subdivision (a) shall be subject to impound pursuant to Section 114393.

SEC. 28. Section 114039.1 of the Health and Safety Code is amended to read:

114039.1. (a) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or each dealer that depurates, ships, or reships the shellstock. Except as specified by subdivision (c), on the harvester's or dealer's tag or label, the following information shall be listed in the following order:

(1) The harvester's or dealer's name and address.

(2) The harvester's certification number as assigned by the authority and the original shellstock shipper's certification number.

(3) The date of harvesting.

(4) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested.

(5) The type and quantity of shellfish.

(6) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(7) The dealer's tag or label shall also indicate the original shipper's certification number, including the abbreviation of the name of the state or country in which the shellfish are harvested.

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information required under subdivision (a) shall be subject to impound pursuant to Section 114393.

(c) If the harvester's tag or label is designed to accommodate each dealer's identification, individual dealer tags or labels need not be provided.

SEC. 29. Section 114039.4 of the Health and Safety Code is amended to read:

114039.4. (a) Except as specified by subdivision (b), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

(b) The identity of the source of shellstock that are sold or served shall be maintained for 90 calendar days from the dates of harvest by using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date or dates the shellstock are sold or served.

(c) Notwithstanding subdivision (b), if shellstock are removed from their tagged or labeled container, the identity of the source of shellstock that are sold or served shall be maintained by doing the following:

(1) Using a recordkeeping system as required under subdivision (b).

(2) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, harvest dates, or growing areas as identified on the tag or label before being ordered by the consumer.

(3) If shellstock are portioned and prepackaged, including a copy of the corresponding shellstock tag or properly labeling the package with the required shellfish information.

SEC. 30. Section 114039.5 of the Health and Safety Code is amended to read:

114039.5. (a) Except as specified in subdivision (b), molluscan shellfish life-support system display tanks shall not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b) Molluscan shellfish life support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with an HACCP plan as specified in Section 114419.1. Operation and maintenance shall ensure the following:

(1) Water used with fish other than molluscan shellfish does not flow into the molluscan tank.

(2) The safety and quality of the shellfish as they were received are not compromised by the use of the tank.

(3) The identity of the source of the shellstock is retained as specified in Section 114039.4.

(c) Molluscan shellfish life support system display tanks that were in operation prior to the effective date of this part need not comply with Section 114419.

SEC. 31. Section 114056 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is repealed.

SEC. 32. Section 114060 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114060. (a) Except for nuts in the shell and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging, counter, service line, or sneeze guards that intercept a direct line between the consumer's mouth and the food being displayed, containers with tight-fitting securely attached lids, display cases, mechanical dispensers, or other effective means.

(b) Nonprepackaged food may be displayed and sold in bulk in other than self-service containers if both of the following conditions are satisfied:

(1) The food is served by a food employee directly to a consumer.

(2) The food is displayed in clean, sanitary, and covered, or otherwise protected, containers.

SEC. 33. Section 114074 of the Health and Safety Code is amended to read:

114074. If tableware is preset, exposed, and unused, extra settings shall either be removed when a consumer is seated or cleaned and sanitized before further use.

SEC. 34. Section 114091 of the Health and Safety Code is amended to read:

114091. In a licensed health care facility and a public or private school cafeteria, the following shall apply:

(a) Only pasteurized juice may be served.

(b) Only pasteurized fluid and dry milk and milk products complying with Grade A standards as specified in law shall be served.

(c) Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages, and, except as specified in subdivision (e), recipes in which more than one egg is broken and the eggs are combined.

(d) (1) Food shall not be reserved where the food was already served to patients or clients who are under contact precautions in medical isolation or quarantine or protective environment isolation.

(2) Food shall not be reserved to a patient or client in protective environment isolation.

(e) The following foods may not be served or offered for sale in a ready-to-eat form:

(1) Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2) A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3) Raw seed sprouts.

(f) Subdivision (c) does not apply in any of the following instances:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Section 114004, and served immediately, such as an omelet, soufflé, or scrambled eggs.

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

(3) The preparation of the food is conducted under a HACCP plan that:

(A) Identifies the food to be prepared.

(B) Prohibits contacting ready-to-eat food with bare hands.

(C) Includes specifications and practices that ensure salmonella enteritidis growth is controlled before and after cooking and is destroyed by cooking the eggs to an internal temperature of 145°F.

(D) Contains the information specified under a HACCP plan, including procedures that control cross-contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces.

(E) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

SEC. 35. Section 114099.2 of the Health and Safety Code is amended to read:

114099.2. (a) Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b) The temperature of the washing solution shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

(c) The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d) Manual sanitization shall be accomplished as specified in Section 114099.6.

(e) In-place sanitizing shall be accomplished as specified in Section 114099.6.

(f) Other methods may be used if approved by the enforcement agency.

SEC. 36. Section 114099.3 of the Health and Safety Code is amended to read:

114099.3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as when equipment is fixed or the utensils are large, and the enforcement agency has approved the use of the alternative equipment. Alternative manual warewashing equipment may include any of the following:

(a) High-pressure detergent sprayers.

(b) Low-or-line pressure spray detergent foamers.

(c) Other task-specific cleaning equipment.

(d) Brushes or other implements.

(e) (1) A two-compartment sink, if the permitholder limits the number of utensils cleaned and sanitized in the two-compartment sink, limits warewashing to batch operations for cleaning and sanitizing utensils, such as between cutting one type of raw meat and another or cleanup at the end of a shift, and does either of the following:

(A) Makes up the cleaning and sanitizing solutions immediately before use and drains them immediately after use, as well as uses a detergent sanitizer to clean and sanitize in accordance with the manufacturer's label instructions where there is no distinct water rinse between the washing and sanitizing steps. The agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the washing step.

(B) Use a hot water sanitization immersion step that incorporates a nondistinct water rinse.

(2) A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of utensils in an ongoing warewashing process.

SEC. 37. Section 114149.1 of the Health and Safety Code is amended to read:

114149.1. (a) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part 2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards.

(b) Restricted food service facilities shall be exempt from subdivision (a), but shall still provide ventilation to remove gases, odors, steam, heat, grease, vapors and smoke from the food facility. In the event that the enforcement officer determines that the ventilation must be mechanical

in nature, the ventilation shall be accomplished by methods approved by the enforcement agency.

(c) This section shall not apply to cooking equipment when the equipment has been submitted to the local enforcement agency for evaluation, and the local enforcement agency has found that the equipment does not produce toxic gases, smoke, grease, vapors, or heat when operated under conditions recommended by the manufacturer. The local enforcement agency may recognize a testing organization to perform any necessary evaluations.

(d) Makeup air shall be provided at the rate of that exhausted.

SEC. 38. Section 114155 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is repealed.

SEC. 39. Section 114185.1 of the Health and Safety Code is amended to read:

114185.1. (a) Wiping cloths that are in use for cleaning food spills shall not be used for any other purpose.

(b) Cloths used for wiping food spills shall be dry and used for cleaning food spills from tableware and carry-out containers or used only once, or if used repeatedly, held in a sanitizing solution of an approved concentration as specified in Section 114099.6.

(c) Dry or wet cloths that are used with raw foods of animal origin shall be kept separate from cloths used for other purposes, and wet cloths used with raw foods of animal origin shall be kept in a separate sanitizing solution.

(d) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

(e) Working containers of sanitizing solutions for storage of in-use wiping cloths shall be used in a manner to prevent contamination of food, equipment, utensils, linens, or single-use articles.

SEC. 40. Section 114192 of the Health and Safety Code is amended to read:

114192. (a) Except as provided in subdivision (d), an adequate, protected, pressurized, potable supply of hot water and cold water shall be provided. Hot water shall be supplied at a minimum temperature of at least 120ºF measured from the faucet, unless otherwise specified in this part. The water supply shall be from a water system approved by the health officer or the local enforcement agency.

(b) Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination.

(c) The potable water supply shall be protected with a backflow or back siphonage protection device when required by applicable plumbing

codes. Exposed piping of a nonpotable water system shall be identified so that it is readily distinguishable from piping that carries potable water.

(d) A food facility may provide only warm water if the water supply is used only for handwashing, as required in Section 113953.

SEC. 41. Section 114245.1 of the Health and Safety Code is amended to read:

114245.1. (a) All refuse, recyclables, and returnables shall be kept in nonabsorbent, durable, cleanable, leakproof, and rodentproof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag that is impervious to moisture and then sealed.

(b) Refuse containers inside a food facility need not be covered during periods of operation.

(c) All refuse shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.

(d) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

SEC. 42. Section 114254 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114254. Only those insecticides, rodenticides, and other pesticides that are necessary and specifically approved for use in a food facility may be used. The use shall be in accordance with the manufacturer's instructions.

SEC. 43. Section 114257 of the Health and Safety Code is amended to read:

114257. All premises of a food facility shall be kept clean fully operative, and in good repair.

SEC. 44. Section 114259.1 of the Health and Safety Code is amended to read:

114259.1. The premises of each food facility shall be kept free of vermin.

SEC. 45. Section 114259.4 of the Health and Safety Code is amended to read:

114259.4. (a) Except as specified in subdivision (b), food employees shall not care for or handle animals that may be present, such as patrol dogs, service animals, or pets that are allowed as specified in subdivision (b) of Section 114259.5.

(b) Food employees with service animals may handle or care for their service animals if they wash their hands as required in this part. Food

employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as required in this part.

SEC. 46. Section 114259.5 of the Health and Safety Code is amended to read:

114259.5. (a) Except as specified in subdivision (b), live animals may not be allowed in a food facility.

(b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

(B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.

(C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(6) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(7) If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers' market.

(c) Those persons and operators described in paragraphs (3) and (4) are liable for any damage done to the premises or facilities by the dog.

(d) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

SEC. 47. Section 114271 of the Health and Safety Code is amended to read:

114271. (a) Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b) This section shall not apply to any of the following areas:

(1) Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.

(2) Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(3) Dining and sales areas.

(4) Offices.

(5) Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.

(c) Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.

(d) Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

(e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

SEC. 48. Section 114276 of the Health and Safety Code is amended to read:

114276. (a) A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b) (1) A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(2) Notwithstanding Section 113984.1, toilet facilities that are provided for use by consumers, guests, or invitees shall be in a location

where consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e) Any city, county, or city and county may enact ordinances that are more restrictive than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), any building that is constructed before January 1, 2004, that has a food facility that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2) The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars ($250).

(3) The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities that are required by this part.

SEC. 49. Section 114299 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114299. (a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The name shall be in letters at least 3 inches high and shall be of a color contrasting with the vehicle exterior. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

SEC. 50. Section 114311 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114311. Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities. The handwashing facilities shall be separate from the warewashing sink.

(a) The handwashing sink shall have a minimum dimension of nine inches by nine inches in length and width and five inches in depth and be easily accessible by food employees.

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

SEC. 51. Section 114323 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114323. (a) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b) Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1) All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2) Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3) Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d) All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment and its installation shall comply with standards prescribed by Sections 18028 and 18029.5.

(e) A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of any mobile food facility that is equipped with heating elements or cooking equipment.

(f) (1) Except for units subject to Part 2 (commencing with Section 18000) of Division 13, a second means of exit shall be provided in the side opposite the main exit door, or in the roof, or the rear of the unit, with an unobstructed passage of at least 24 inches by 36 inches. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with letters at least one inch high.

(2) For units subject to Part 2 (commencing with Section 18000) of Division 13, the size, latching, and labeling of the second means of exit shall comply with standards prescribed by Sections 18028 and 18029.5.

(g) All gas-fired appliances shall be properly insulated in a manner that will prevent excessive heat buildup and injury.

SEC. 52. Section 114325 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120ºF, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous water heater capable of heating water to a minimum of 100°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) (1) Except as specified in paragraph (2), a water heater with a minimum capacity of three gallons shall be provided for mobile food facilities.

(2) A minimum water heater capacity of one-half gallon shall be provided for mobile food facilities approved for limited food preparation.

SEC. 53. Section 114326 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114326. All commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines shall meet the applicable requirements in this part and any of the following to accommodate all operations necessary to support mobile support units, mobile food facilities, and vending machines:

(a) Adequate facilities shall be provided for the sanitary disposal of liquid waste from the mobile food facility or mobile support unit being serviced.

(b) Adequate facilities shall be provided for the handling and disposal of garbage and refuse originating from a mobile food facility or mobile support unit.

(c) Potable water shall be available for filling the water tanks of each mobile food facility and mobile support unit that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.

(d) Hot and cold water, under pressure, shall be available for cleaning mobile food facilities and mobile support units.

(e) Adequate facilities shall be provided for the storage of food, utensils, and other supplies.

(f) Notwithstanding Section 113984, commissaries that service mobile food facilities that conduct limited food preparation shall provide a food preparation area.

(g) Servicing areas at commissaries shall be provided with overhead protection, except that areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses need not be provided with overhead protection.

(h) Servicing areas used for cleaning shall be sloped and drained to an approved wastewater system.

(i) Adequate electrical outlets shall be provided for mobile food facilities and mobile support units that require electrical service.

SEC. 54. Section 114358 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114358. (a) Notwithstanding Section 113953, handwashing facilities for temporary food facilities that operate for three days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive.

(b) Food facilities that handle only prepackaged food may provide cold water with a germicidal soap at the handwashing facility.

(c) A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(d) Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels.

(e) A separate receptacle shall be available for towel waste.

SEC. 55. Section 114371 of the Health and Safety Code is amended to read:

114371. Certified farmers' markets shall meet all of the following requirements:

(a) All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of food samples. Distribution of food samples may occur provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Notwithstanding Section 114205, potable water shall be available for handwashing and sanitizing as approved by the enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45ºF and shall be disposed of within two hours after cutting.

(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized.

(c) Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f) Notwithstanding Chapter 10 (commencing with Section 114294), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the mobile food facility in a manner approved by the enforcement agency.

(g) Temporary food facilities may be operated as a separate community event adjacent to and in conjunction with certified farmers' markets that are operated as a community event. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114383.

SEC. 56. Section 114380 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114380. (a) A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of any facility for use as a retail food facility.

(b) Plans and specifications may also be required by the enforcement agency if the agency determines that they are necessary to assure compliance with the requirements of this part, including, but not limited to, a menu change or change in the facility's method of operation.

(c) (1) All new school food facilities or school food facilities that undergo modernization or remodeling shall comply with all structural requirements of this part. Upon submission of plans by the school authority, the Office of the State Architect and the local enforcement agency shall review and approve all new and remodeled school facilities for compliance with all applicable requirements.

(2) Except where a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing food facilities shall be deemed to be in compliance with the law pending replacement or renovation. If a determination is made by the enforcement agency that a structural condition poses a public health hazard, the food facility shall remedy the deficiency to the satisfaction of the enforcement agency.

(d) The plans shall be approved or rejected within 20 working days after receipt by the enforcement agency and the applicant shall be notified of the decision. Unless the plans are approved or rejected within 20 working days, they shall be deemed approved. The building department shall not issue a building permit for a food facility until after it has received plan approval by the enforcement agency. Nothing in this section shall require that plans or specifications be prepared by someone other than the applicant.

SEC. 57. Section 114393 of the Health and Safety Code is amended to read:

114393. (a) Based upon inspection findings or other evidence, an enforcement officer may impound food, equipment, or utensils that are found to be, or suspected of being, unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated,

and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860. The enforcement officer may attach a tag to the food, equipment, or utensils that shall be removed only by the enforcement officer following verification that the condition has been corrected.

(b) No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c) Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

SEC. 58. Section 114417.1 of the Health and Safety Code is amended to read:

114417.1. (a) Within 180 days after the effective date of this part, the department shall develop the form of application that an applicant for a variance must submit. The department may amend the form as it deems appropriate. The application shall contain, at a minimum, the following information:

(1) A detailed description of the requested variance, including citation to the relevant subdivisions specified in Section 113936.

(2) An analysis of the science-based rationale upon which the proposed alternate practice or procedure is based, to include, if and as appropriate, microbial challenge and process validation studies demonstrating how potential health hazards dealt with in those subdivisions that are relevant to the requested variance will be addressed.

(3) A description of the specific procedures, processes, monitoring steps, and other relevant protocols that will be implemented pursuant to the variance to address potential health hazards dealt with in those subdivisions specified in Section 113936 that are relevant to the requested variance.

(4) An HACCP plan, if required pursuant to Section 114419, that includes all applicable information relevant to the requested variance.

(b) An application for a variance shall be submitted to the department, and must be accompanied at the time of submission by the fees specified in subdivision (c).

(c) Each application for a variance shall be accompanied at the time of submission by payment of fees sufficient to pay the necessary costs of the department as specified in Section 113717. Any overpayment by the applicant in excess of the recovery rate and other costs incurred shall be repaid to the applicant within 30 calendar days after final action is taken by the department on the application.

SEC. 59. Section 114417.6 of the Health and Safety Code is amended to read:

114417.6. If the department grants a variance, or if an HACCP plan is required pursuant to Section 114419, the permitholder shall do both of the following:

(a) Comply with the HACCP plan and procedures that are submitted as specified in Sections 114419.1 and 114419.2 and approved as a condition for the granting of the variance.

(b) Maintain and provide to the enforcement agency, upon request, records specified under a HACCP plan, or otherwise pursuant to the variance letter, that demonstrate that the following are routinely employed:

(1) Procedures for monitoring critical control points.

(2) Monitoring of the critical control points.

(3) Verification of the effectiveness of an operation or process.

(4) Necessary corrective actions if there is a failure at a critical control point.

SEC. 60. Section 114419 of the Health and Safety Code is amended to read:

114419. (a) Food facilities may engage in any of the following activities only pursuant to an HACCP plan as specified in Section 114419.1:

(1) Smoking food as a method of food preservation rather than as a method of flavor enhancement.

(2) Curing food.

(3) Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement, or to render a food so that it is not potentially hazardous.

(4) Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption.

(5) Custom processing animals that are for personal use as food and not for sale or service in a food facility.

(6) Preparing food by another method that is determined by the enforcement agency to require an HACCP plan.

(b) Food facilities may engage in the following only pursuant to an HACCP plan that has been approved by the department:

(1) Using acidification or water activity to prevent the growth of Clostridium botulinum.

(2) Packaging potentially hazardous food using a reduced-oxygen packaging method as specified in Section 114057.1.

SEC. 61. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or

infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 62. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that laws regulating food safety at retail food facilities are enacted at the earliest possible time, thereby protecting public health, it is necessary that this act take effect immediately.

CHAPTER 97

An act to amend Section 8026 of the Elections Code, relating to elections.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 8026 of the Elections Code is amended to read:

8026. (a) Notwithstanding any other provision of law, except for an election for a judicial office, an election shall not be conducted and no votes cast for the office shall be counted, and if counted the votes shall be null and void, if an incumbent is a candidate for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, which he or she currently holds at an election at which only one other candidate, excluding any write-in candidates, has qualified to have his or her name placed on the ballot for that office, and either the challenger or the incumbent dies after the hour of 12:01 a.m. of the 68th day before the election.

(b) A special election shall be called and held when the death of the challenger or the incumbent occurs within the period set in subdivision (a). The special election shall be called by the appropriate governing body within 14 days after the death of the incumbent or challenger. The

special election shall be held no later than 88 days after the proclamation or resolution calling for the election. Candidates at the special election shall be nominated in accordance with this part, except that forms for securing signatures in lieu of a filing fee need not be made available until 15 days before the first day for circulating nomination papers, in-lieu-filing-fee petitions shall be filed at least seven days prior to the closing of the nomination period, nomination papers shall be delivered for filing to the elections official not less than 68 days and not more than 87 days before the special election, any candidate's statement shall be filed with the clerk no later than the 68th day before the special election, and the Secretary of State shall conduct the randomized alphabet drawing under procedures similar to Sections 13112 and 13113 on the 67th day before the special election. Any candidate who paid a filing fee in connection with the previously scheduled election shall not be required to pay any additional filing fee, but shall be required to file new nomination papers.

(c) The Secretary of State or elections official shall take appropriate action to ensure that voters do not erroneously vote in a canceled election.

(d) This section applies to a primary election. If a candidate in a runoff election dies under the circumstances prescribed in subdivision (a), Section 15402 applies to govern the results of that election.

CHAPTER 98

An act to amend Sections 56375 and 56826.5 of, and to amend and repeal Sections 56030, 56700, and 56886.5 of, the Government Code, relating to local government entities.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 56030 of the Government Code, as amended by Section 1 of Chapter 471 of the Statutes of 2004, is amended to read:

56030. "Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.

SEC. 2. Section 56030 of the Government Code, as added by Section 1.5 of Chapter 471 of the Statutes of 2004, is repealed.

SEC. 3. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. A commission shall have the authority to initiate only a (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, (5) formation of a new district or districts, or (6) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(3) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory

are vested or are already at buildout, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned. The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions not inconsistent with existing state law.

The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 4. Section 56700 of the Government Code, as amended by Section 99 of Chapter 22 of the Statutes of 2005, is amended to read:

56700. (a) A proposal for a change of organization or a reorganization may be made by petition. The petition shall do all of the following:

(1) State that the proposal is made pursuant to this part.

(2) State the nature of the proposal and list all proposed changes of organization.

(3) Set forth a description of the boundaries of affected territory accompanied by a map showing the boundaries.

(4) Set forth any proposed terms and conditions.

(5) State the reason or reasons for the proposal.

(6) State whether the petition is signed by registered voters or owners of land.

(7) Designate up to three persons as chief petitioners, setting forth their names and mailing addresses.

(8) Request that proceedings be taken for the proposal pursuant to this part.

(9) State whether the proposal is consistent with the sphere of influence of any affected city or affected district.

(b) A petition for a proposal for a change of organization or a reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act, in addition to the requirements set forth in subdivision (a), shall do either of the following:

(1) Designate the district that shall be the successor and specify under which principal act the successor shall conduct itself.

(2) State that the proposal requires the formation of a new district and includes a plan for services prepared pursuant to Section 56653.

SEC. 5. Section 56700 of the Government Code, as amended by Section 100 of Chapter 22 of the Statutes of 2005, is repealed.

SEC. 6. Section 56826.5 of the Government Code is amended to read:

56826.5. (a) A proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if both the following conditions are met:

(1) The commission is able to designate a successor or successors, or form a new district or districts, authorized by their respective principal acts to deliver all of the services provided by the consolidating districts at the time of consolidation.

(2) The commission makes the determinations specified in subdivision (b) of Section 56881.

(b) If a proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act is initiated by the commission pursuant to subdivision (a) of Section

56375, it shall only be approved if the commission has prepared a study pursuant to Section 56378 or the written statement of determinations specified in subdivision (a) of Section 56430, and all of the following conditions are met:

(1) Each of the services provided by the districts subject to the proposal will be provided by a successor or successors, or by the formation of a new district authorized under a principal act to deliver the services. The commission may designate a successor other than the districts subject to the proposal only if the successor is currently providing the same service provided by one or more of the districts subject to the proposal. The commission shall not designate a city as a successor unless the city contains 70 percent or more of the area of land within one of the districts subject to the proposal, or the combined territory of two or more of the districts subject to the proposal, within its boundaries, and 70 percent or more of the number of registered voters of the district or the combined districts who reside within the boundaries of the city.

(2) The public services costs of the proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(3) The proposal that the commission is approving promotes public access and accountability for community services needs and financial resources.

SEC. 7. Section 56886.5 of the Government Code, as amended by Section 4 of Chapter 471 of the Statutes of 2004, is amended to read:

56886.5. (a) If a proposal includes the formation of a district or the incorporation of a city, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose local agency is deemed necessary, the commission shall consider reorganization with other single-purpose local agencies that provide related services.

(b) If a proposal includes the consolidation of two or more special districts not formed pursuant to the same principal act, the commission shall determine whether any service provided at that time could be discontinued due to a lack of authority under the principal act of the successor. If a new single-purpose local agency is deemed necessary to provide the needed service or services, the commission shall consider the formation of a new district that is authorized to provide the service or services.

SEC. 8. Section 56886.5 of the Government Code, as added by Section 5.5 of Chapter 471 of the Statutes of 2004, is repealed.

SEC. 9. (a) The provisions of this act do not apply to any proceeding for a change of organization or reorganization for which the application

has been accepted for filing by the executive officer of a local agency formation commission pursuant to Section 56658 of the Government Code prior to January 1, 2008. These pending proceedings may be continued and completed under, and in accordance with, the provisions of law under which the proceedings were commenced.

(b) The provisions of this act shall not affect any litigation pending on January 1, 2008.

CHAPTER 99

An act to amend Sections 350, 697, 708, 1520, 1521, and 1522 of, to add Section 691.1 to, and to repeal and add Section 1501.2 of, the Financial Code, relating to financial institutions.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 350 of the Financial Code is amended to read:

350. When authorized by the commissioner as provided in this chapter a corporation may be formed by one or more persons in accordance with the laws of this state for the purpose of conducting a commercial banking business or a trust business, or both of them. The qualification requirements of the Corporate Securities Law of 1968 shall not apply to the offer and sale of securities issued by and representing an interest in or a direct obligation of a bank or trust company incorporated under the laws of this state if the securities are offered and sold pursuant to the commissioner's authorization described in Section 691 or the securities are exempt from authorization pursuant to Section 691.1, or by a regulation or order of the commissioner.

SEC. 2. Section 691.1 is added to the Financial Code, to read:

691.1. The following transactions are exempt from Section 691:

(a) (1) Any offer (but not a sale) not involving a public offering by a bank organized under the laws of this state of its securities and the execution and delivery of any agreement for the sale of the securities pursuant to the offer if no part of the consideration for the securities is paid to or received by the bank and none of the securities are issued until the sale of the securities is authorized by the commissioner or exempted from authorization.

(2) For purposes of paragraph (1), an offer does not involve any public offering if the offers are not made to more than 25 persons and any

agreement for the sale of the securities is not entered into with more than 10 of those 25 persons, and if all of the offerees either have a preexisting personal or business relationship with the bank or its officers, directors, or controlling persons, or by reason of their business or financial experience the offerees could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(b) Any stock split by a bank organized under the laws of this state that is effected pursuant to an amendment to its articles, an agreement of merger, or a certificate of ownership that has been approved by the commissioner, unless this exemption is withheld by order of the commissioner.

(c) Any offer or sale of securities by a bank organized under the laws of this state that is either (1) to a person actually approved by the commissioner pursuant to Section 702 to acquire control of the bank if all of the material terms and conditions of the offer and sale of securities are disclosed in the application for approval specified in Section 702 and the offer and sale of securities is in accordance with the terms and subject to the conditions of the approval to acquire control or (2) in a transaction exempted from the approval requirement of Section 701 by a regulation or an order of the commissioner, unless this exemption is withheld by order of the commissioner.

SEC. 3. Section 697 of the Financial Code is amended to read:

697. There shall be exempted from the provisions of Section 691 any transaction or security, including, without limitation, any type or class of transactions or securities, which the commissioner by regulation or order exempts as not being comprehended within the purposes of this article and the regulation of which he or she finds is not necessary or appropriate in the public interest or for the protection of investors.

SEC. 4. Section 708 of the Financial Code is amended to read:

708. There shall be exempted from the provisions of Section 701 any transaction, including, without limitation, any type or class of transactions, which the commissioner by regulation or order exempts as not being comprehended within the purposes of this article and the regulation of which the commissioner finds is not necessary or appropriate in the public interest or for the protection of a bank, a controlling person, or the depositors, creditors, or shareholders of a bank or a controlling person.

SEC. 5. Section 1501.2 of the Financial Code is repealed.

SEC. 6. Section 1501.2 is added to the Financial Code, to read:

1501.2. The following persons are exempt from the restrictions and prohibitions contained in Section 1500 and Article 3 (commencing with Section 3390) of Chapter 18:

(a) Any natural person serving as trustee of one or more trusts where at least one trustor is a family member of that trustee. For purposes of this section, "family member" means any lineal ancestor, lineal descendant, person having a common lineal ancestor of not more than four generations distant, spouse, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepparent, or stepchild.

(b) Any member of the State Bar, as specified in Section 6002 of the Business and Professions Code, any certified public accountant, as defined in Section 5033 of the Business and Professions Code, and any professional corporation of one or more members of the State Bar or certified public accountants, where these professionals are acting as trustee of a trust established by them for their respective clients, provided that the member of the State Bar, certified public accountant, or professional corporation engages in no advertising for trust business in this state.

(c) Subject to all applicable limitations and restrictions in law for nonprofit corporations, any nonprofit corporation acting as trustee incidental to the purposes for which it was organized.

(d) Any person appointed as receiver, trustee, or other fiduciary by a court of competent jurisdiction acting pursuant to that authority.

SEC. 7. Section 1520 of the Financial Code is amended to read:

1520. It is the intent of the Legislature that the provisions of this article, insofar as they are contained in the regulations regarding fiduciary activities of national banks (Part 9 (commencing with Section 9.1) of Title 12 of the Code of Federal Regulations) of the Office of the Comptroller of the Currency, conform, and be interpreted by anyone construing the provisions of this article to so conform, to those regulations, any rule or interpretation promulgated thereunder by the Office of the Comptroller of the Currency, and to any interpretation issued by an official or employee of the Office of Comptroller of the Currency duly authorized to issue the interpretation.

SEC. 8. Section 1521 of the Financial Code is amended to read:

1521. For purposes of Section 1522, the following terms have the following meanings:

(a) "Bank" means any of the following:

(1) A commercial bank, industrial bank, or trust company incorporated under the laws of this state.

(2) A foreign (other state) bank that may establish a branch office in this state in accordance with Article 2 (commencing with Section 3820) of Chapter 22 of Division 1.

(b) "Fiduciary Regulations" means the regulations regarding fiduciary activities of national banks promulgated by the Office of the Comptroller

of the Currency (Part 9 (commencing with Section 9.1) of Title 12 of the Code of Federal Regulations), as amended from time to time.

(c) "Affiliate" has the meaning set forth in Section 150 of the Corporations Code.

(d) "Applicable law" means the law of the state, another state, or other jurisdiction governing a bank's fiduciary relationships, any applicable federal laws governing those relationships, or any court order pertaining to those relationships.

(e) "Custodian under a uniform gifts to minors act" means a fiduciary relationship established pursuant to the California Uniform Transfers to Minors Act (Part 9 (commencing with 3900) of Division 4 of the Probate Code).

(f) "Fiduciary account" means an account administered by a bank acting in a fiduciary capacity.

(g) "Fiduciary capacity" means trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gifts to minors act; investment adviser, if the bank receives a fee for its investment advice; any capacity in which the bank possesses investment discretion on behalf of another; or any other similar capacity.

(h) "Fiduciary powers" means the powers granted a bank by virtue of its receipt of the authority to engage in trust business from the commissioner.

(i) "Guardian" means the guardian or conservator, by whatever name used by law, of the estate of a minor, an incompetent person, an absent person, or a person over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws.

(j) "Investment discretion" means, with respect to an account, the sole or shared authority, whether or not that authority is exercised, to determine what securities or other assets to purchase or sell on behalf of that account. A bank that delegates its authority over investments and a bank that receives delegated authority over investments shall both be deemed to have investment discretion.

(k) "Trust office" means an office of a bank, other than a main office, at which the bank engages in the trust business. A trust office that engages in core banking business, as defined in subdivision (b) of Section 3800, is considered a branch office of the bank.

(*l*) "Trust representative office" means a facility as defined in subdivision (c) of Section 3800.

SEC. 9. Section 1522 of the Financial Code is amended to read:

1522. (a) Sections 9.4 to 9.6, inclusive, Sections 9.8 to 9.15, inclusive, and Sections 9.18 to 9.101, inclusive, of the Fiduciary

Regulations in all of their particular, including footnotes, are hereby referred to, incorporated by reference into this article, and adopted.

(b) All references to the term "national bank" or "national banks" used in the Fiduciary Regulations shall mean "bank" or "banks" for purposes of this article.

CHAPTER 100

An act to amend Sections 742, 1063.1, 1872.8, and 10168.25 of, and to repeal Section 12964 of, the Insurance Code, relating to insurance.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 742 of the Insurance Code is amended to read:

742. (a) Any person or other entity that provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric services, whether this coverage is by direct payment, reimbursement, or otherwise, and that enters into an arrangement or contract with, or underwrites, a preferred provider organization or arrangement subject to Section 10133 is subject to the jurisdiction of the Department of Insurance.

(b) Any person or entity subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code shall not be subject to this section.

SEC. 2. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means an insurer that was a member insurer of the association, consistent with paragraph (11) of subdivision (c), either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation or receivership with a finding of insolvency has been entered by a court of competent jurisdiction, or, in the case of the State Compensation Insurance Fund, if a finding of insolvency is made by a duly enacted legislative measure.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (A) imposed by law and within the coverage of an insurance policy of the insolvent insurer; (B) which were unpaid by the insolvent insurer; (C) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (D) which were incurred prior to the date coverage under the policy terminated and prior to, on, or within 30 days after the date the liquidator was appointed; (E) for which the assets of the insolvent insurer are insufficient to discharge in full; (F) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (G) in the case of other classes of insurance if the claimant or insured is a resident of this state at the time of the insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) "Covered claims" also include the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (A) to (G), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(A) Life, annuity, health, or disability insurance.

(B) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(C) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(D) Credit insurance.

(E) Title insurance.

(F) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar

federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(G) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers' compensation policy issued pursuant to subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request, or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(5) "Covered claims" does not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

An insurer, insurance pool, or underwriting association may not maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer's policy. In those claims or legal actions, the insured of the insolvent insurer is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars ($100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of any claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include any amount awarded as punitive or exemplary damages, nor any amount awarded by the Workers' Compensation Appeals Board pursuant to Section 5814 or 5814.5 because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) "Covered claims" does not include (A) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (B) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her assignee as the person entitled thereto under a premium finance agreement as defined in Section 673 and entered into prior to insolvency, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and does not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" does not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to Sections 11802 and 11803.

(11) "Covered claims" does not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(12) "Covered claims" does not include surplus deposits of subscribers as defined in Section 1374.1.

(13) "Covered claims" shall also include obligations arising under an insurance policy written to indemnify a permissibly self-insured employer pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, provided, however, that for purposes of this article, those claims shall not be considered workers' compensation claims and therefore are subject to the per claim limit in paragraph (7) and any payments and expenses related thereto shall be allocated to category (c) for claims other than workers' compensation, homeowners, and automobile, as provided in Section 1063.5.

These provisions shall apply to obligations arising under any policy as described herein issued to a permissibly self-insured employer or group of self-insured employers pursuant to Section 3700 of the Labor Code and notwithstanding any other provision of the Insurance Code, those obligations shall be governed by this provision in the event that the Self-Insurers' Security Fund is ordered to assume the liabilities of a permissibly self-insured employer or group of self-insured employers pursuant to Section 3701.5 of the Labor Code. The provisions of this paragraph apply only to insurance policies written to indemnify a permissibly self-insured employer or group of self-insured employers under subdivision (b) or (c) of Section 3700, for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, and this paragraph does not apply to special excess workers'

compensation insurance policies unless issued pursuant to authority granted in subdivision (c) of Section 3702.8 of the Labor Code, and as provided for in subparagraph (G) of paragraph (3) of subdivision (c). In addition, this paragraph does not apply to any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses as are excluded in subparagraph (G) of paragraph (3) of subdivision (c).

Each permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall, to the extent required by the Labor Code, be responsible for paying, adjusting, and defending each claim arising under policies of insurance covered under this section, unless the benefits paid on a claim exceed the specific or aggregate retention, in which case.

(A) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy requires the insurer to defend and adjust the claim, the California Insurance Guarantee Association (CIGA) shall be solely responsible for adjusting and defending the claim, and shall make all payments due under the claim, subject to the limitations and exclusions of this article with regards to covered claims. As to each claim subject to this paragraph, notwithstanding any other provisions of the Insurance Code or the Labor Code, and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in subdivision (c).

(B) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy does not require the insurer to defend and adjust the claim, the permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall not have any further payment obligations with respect to the claim, but shall continue defending and adjusting the claim, and shall have the right, but not the obligation, in any proceeding to assert all applicable statutory limitations and exclusions as contained in this article with regard to the covered claim. CIGA shall have the right, but not the obligation, to intervene in any proceeding where the self-insured employer, group of self-insured employers, or the Self-Insurers' Security Fund is defending any such claim and shall be permitted to raise the appropriate statutory limitations and exclusions as contained in this article with respect to covered claims. Regardless of whether the self-insured employer or group of employers, or the Self-Insurers' Security Fund, asserts the applicable statutory limitations and exclusions, or whether CIGA intervenes in any such proceeding, CIGA shall be solely responsible for paying all benefits due on the claim, subject to the exclusions and

limitations of this article with respect to covered claims. As to each claim subject to this paragraph, notwithstanding any other provision of the Insurance Code or the Labor Code and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in this subdivision.

(d) In the event that the benefits paid on the covered claim exceed the per claim limit in paragraph (7) of subdivision (c), the responsibility for paying, adjusting, and defending the claim shall be returned to the permissibly self-insured employer or group of employers, or the Self-Insurers' Security Fund.

These provisions shall apply to all pending and future insolvencies. For purposes of this paragraph, a pending insolvency is one involving a company that is currently receiving benefits from the guaranty association.

(e) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(f) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(g) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by showing that control does not in fact exist.

(h) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(i) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal

liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(j) "Unearned premium" means that portion of a premium as calculated by the liquidator that had not been earned because of the cancellation of the insolvent insurer's policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include any amount sought as return of a premium under any policy providing retroactive insurance of a known loss or return of a premium under any retrospectively rated policy or a policy subject to a contingent surcharge or any policy in which the final determination of the premium cost is computed after expiration of the policy and is calculated on the basis of actual loss experience during the policy period.

SEC. 3. Section 1872.8 of the Insurance Code is amended to read:

1872.8. (a) Each insurer doing business in this state shall pay an annual fee to be determined by the commissioner, but not to exceed one dollar ($1) annually for each vehicle insured under an insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft. Thirty-four percent of those funds received from ninety-five cents ($0.95) of the assessment fee per insured vehicle shall be distributed to the Fraud Division for enhanced investigative efforts, 15 percent of that ninety-five cents ($0.95) shall be deposited in the Motor Vehicle Account for appropriation to the Department of the California Highway Patrol for enhanced prevention and investigative efforts to deter economic automobile theft, and 51 percent of the funds shall be distributed to district attorneys for purposes of investigation and prosecution of automobile insurance fraud cases, including fraud involving economic automobile theft.

(b) (1) The commissioner shall award funds to district attorneys according to population. The commissioner may alter this distribution formula as necessary to achieve the most effective distribution of funds. Each local district attorney desiring a portion of those funds shall submit to the commissioner an application detailing the proposed use of any moneys that may be provided. The application shall include a detailed accounting of assessment funds received and expended in prior years, including at a minimum, all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) Results achieved as a consequence of expenditures made, including the number of investigations, arrests, complaints filed, convictions, and the amounts originally claimed in cases prosecuted compared to payments actually made in those cases.

(D) Other relevant information as the commissioner may reasonably require.

Any district attorney who fails to submit an application by the deadline set by the commissioner shall be subject to loss of distribution of the moneys. The commissioner may consider recommendations and advice of the Fraud Division and the Commissioner of the California Highway Patrol in allocating moneys to local district attorneys. Any district attorney that receives funds shall submit an annual report to the commissioner, which may be made public, as to the success of the program administered. The report shall provide information and statistics on the number of active investigations, arrests, indictments, and convictions. Both the application for moneys and the distribution of moneys shall be public documents. The commissioner shall conduct a fiscal audit of the programs administered under this subdivision at least once every three years. The cost of a fiscal audit shall be shared equally between the department and the district attorney. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential. If the commissioner determines that a district attorney is unable or unwilling to investigate and prosecute automobile insurance fraud claims as provided by this subdivision or Section 1874.8, the commissioner may discontinue the distribution of funds allocated for that county and may redistribute those funds to other eligible district attorneys.

(2) The Department of the California Highway Patrol shall submit to the commissioner, for informational purposes only, a report detailing the department's proposed use of funds under this section and an annual report in the same format as required of district attorneys under paragraph (1).

(c) The remaining five cents ($0.05) shall be spent for enhanced automobile insurance fraud investigation by the Fraud Division.

(d) Except for funds to be deposited in the Motor Vehicle Account for allocation to the Department of the California Highway Patrol for purposes of the Motor Vehicle Prevention Act (Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code), the funds received under this section shall be deposited in the Insurance Fund and be expended and distributed when appropriated by the Legislature.

(e) In the course of its investigations, the Fraud Division shall aggressively pursue all reported incidents of probable fraud and, in addition, shall forward to the appropriate disciplinary body the names

of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity along with all relevant supporting evidence.

(f) As used in this section "economic automobile theft" means automobile theft perpetrated for financial gain, including, but not limited to, the following:

(1) Theft of a motor vehicle for financial gain.

(2) Reporting that a motor vehicle has been stolen for the purpose of filing a false insurance claim.

(3) Engaging in any act prohibited by Chapter 3.5 (commencing with Section 10801) of Division 4 of the Vehicle Code.

(4) Switching of vehicle identification numbers to obtain title to a stolen motor vehicle.

SEC. 4. Section 10168.25 of the Insurance Code is amended to read:

10168.25. (a) This section shall apply to contracts issued on and after January 1, 2006, and may be applied by a company, on a contract-form-by-contract-form basis, to any contract issued on or after January 1, 2004, and before January 1, 2006.

(b) The minimum values as specified in Sections 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(c) (1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time, at the rates of interest indicated in subdivision (d), of the net considerations (as hereafter defined) paid prior to that time, decreased by the sum of all of the following:

(A) Any prior withdrawals from or partial surrenders of the contract, accumulated at the rates of interest indicated in subdivision (d).

(B) An annual contract charge of fifty dollars ($50), accumulated at the rates of interest indicated in subdivision (d).

(C) Any state premium tax paid by the company for the contract, accumulated at the rates of interest indicated in subdivision (d). However, the minimum nonforfeiture amount may not be decreased by this amount if the premium tax is subsequently credited back to the company.

(D) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to 87.5 percent of the gross considerations credited to the contract during that contract year.

(d) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of 3

percent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(1) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or averaged over a period, rounded to the nearest one-twentieth of 1 percent, specified in the contract no longer than 15 months prior to the contract issue date or redetermination date under paragraph (2), reduced by 125 basis points, where the resulting rate is not less than 1 percent.

(2) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date, or average over a specified period, that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(e) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in paragraph (1) of subdivision (d) by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(f) The commissioner may adopt regulations to implement the provisions of subdivision (e) and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts with respect to which the commissioner determines adjustments are justified.

SEC. 4. Section 12964 of the Insurance Code is repealed.

CHAPTER 101

An act to amend Sections 1502, 2117, 6210, 8210, 25404, 28711, 31119, and 31155 of, and to add Sections 25530.1, 28716, 29105, 29538, 31204, and 31400.1 to, the Corporations Code, and to amend Sections 22050, 22105, 22109, 22112, 50123, and 50205 of, and to add Sections 12332, 12404, 17703, 22169, 22170, 23011.5, 23015, 30218, 30609, and 50512 to, the Financial Code, relating to business.

[Approved by Governor July 20, 2007. Filed with
Secretary of State July 20, 2007.]

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

SECTION 1. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall file, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing all of the following:

(1) The names and complete business or residence addresses of its incumbent directors.

(2) The number of vacancies on the board, if any.

(3) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(4) The street address of its principal executive office.

(5) The mailing address of the corporation, if different from the street address of its principal executive office.

(6) If the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any.

(7) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth that person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) If there has been no change in the information in the last filed statement of the corporation on file in the Secretary of State's office, the corporation may, in lieu of filing the statement required by subdivisions (a) and (b), advise the Secretary of State, on a form prescribed by the Secretary of State, that no changes in the required information have occurred during the applicable filing period.

(d) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance

and shall be mailed to the last address of the corporation according to the records of the Secretary of State. The failure of the corporation to receive the notice is not an excuse for failure to comply with this section.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(f) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(g) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

(h) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in this statement by means of an online database.

(i) In addition to any other fees required, a corporation shall pay a five-dollar ($5) disclosure fee when filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (h), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 1502.5.

(j) A corporation shall certify that the information it provides pursuant to subdivisions (a) and (b) is true and correct. No claim may be made against the state for inaccurate information contained in the statements.

SEC. 2. Section 2117 of the Corporations Code is amended to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, annually during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing the following:

(1) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(2) The street address of its principal executive office.

(3) The mailing address of the corporation, if different from the street address of its principal executive office.

(4) The street address of its principal business office in this state, if any.

(5) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as the agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in the statement by means of an online database.

(d) In addition to any other fees required, a foreign corporation shall pay a five-dollar ($5) disclosure fee upon filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (d), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 1502.5.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section, except that "articles" shall mean the filing pursuant to Section 2105, and "corporation" shall mean a foreign corporation.

SEC. 3. Section 6210 of the Corporations Code is amended to read:

6210. (a) Every corporation shall, within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (2) the street address of its principal office in this state, if any; and (3) the mailing address of the corporation, if different from the street address

of its principal executive office or if the corporation has no principal office address in this state.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the notice nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 4. Section 8210 of the Corporations Code is amended to read:

8210. (a) Every corporation shall, within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (2) the street address of its principal office in this state, if any; (3) the mailing address of the corporation, if different from the street address of its

principal executive office or if the corporation has no principal office address in this state.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the notice nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 5. Section 25404 of the Corporations Code is amended to read:

25404. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or

influence the administration or enforcement of any provision of this division.

SEC. 6. Section 25530.1 is added to the Corporations Code, to read:

25530.1. In any proceeding under Section 25530, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated Section 25401 from acting as an officer or director of any issuer that has securities qualified pursuant to Section 25110, or that has securities or a transaction exempt from qualification pursuant to Section 25100, 25102, or 25103, if the person's conduct demonstrates unfitness to serve as an officer or director of the issuer.

SEC. 7. Section 28711 of the Corporations Code is amended to read:

28711. (a) If the commissioner finds that any of the factors set forth in Section 28710 is true with respect to any licensee and that it is necessary for the protection of the public interest that the commissioner immediately suspend or revoke the license of the licensee, the commissioner may issue an order suspending or revoking the license of the licensee.

(b) Within 30 days after an order is issued pursuant to subdivision (a), any licensee to whom the order is directed may file with the commissioner a request for a hearing on the order. If the commissioner fails to commence a hearing within 15 business days after the request is filed (or within any longer period to which the licensee consents), the order shall be deemed rescinded. Upon the completion of the hearing, the commissioner shall affirm, modify, or rescind the order.

SEC. 8. Section 28716 is added to the Corporations Code, to read:

28716. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 9. Section 29105 is added to the Corporations Code, to read:

29105. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or

influence the administration or enforcement of any provision of this division.

SEC. 10. Section 29538 is added to the Corporations Code, to read:

29538. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 11. Section 31119 of the Corporations Code is amended to read:

31119. (a) It is unlawful to sell any franchise in this state that is subject to registration under this law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a copy of the offering circular, together with a copy of all proposed agreements relating to the sale of the franchise.

(b) Nothing in this division shall be construed to prevent a franchisor from providing copies of the offering circular documents to prospective franchisees through electronic means pursuant to any requirements or conditions that may be imposed by rule or order of the commissioner.

SEC. 12. Section 31155 of the Corporations Code is amended to read:

31155. Every applicant for registration of an offer to sell franchises under this law, by other than a California corporation, California limited partnership, or California limited liability company, shall file with the commissioner, in such form as he or she by rule prescribed, an irrevocable consent appointing the commissioner or his or her successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against him or her or his or her successor, executor or administrator, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration under this law need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (a) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail

to the defendant or respondent at his last address on file with the commissioner, and (b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

SEC. 13. Section 31204 is added to the Corporations Code, to read:

31204. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 14. Section 31400.1 is added to the Corporations Code, to read:

31400.1. In any proceeding under Section 31400, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated Section 31200, 31201, or 31202 from acting as an officer or director of any franchisor if the person's conduct demonstrates unfitness to serve as an officer or director of the franchisor.

SEC. 15. Section 12332 is added to the Financial Code, to read:

12332. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 16. Section 12404 is added to the Financial Code, to read:

12404. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any licensee, any nonprofit community service organization subject to Section 12104, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or

should have been known by the person committing or causing it or has caused material damage to the licensee, nonprofit community service organization, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure or exempt from licensure under Section 12104 of the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensee or a person exempt from licensure under Section 12104 and from engaging in any business activity on the premises where a licensee or a person exempt from licensure under Section 12104 is conducting business.

SEC. 17. Section 17703 is added to the Financial Code, to read:

17703. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 18. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of any state or of the United States relating to banks, trust

companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a check casher who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit, and shall not apply to a person holding a valid license issued pursuant to Section 23005 of the Financial Code when acting under the authority of that license.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a broker-dealer acting pursuant to a certificate then in effect and issued pursuant to Section 25211 of the Corporations Code.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.

(g) This section shall become operative December 31, 2004.

SEC. 19. Section 22105 of the Financial Code is amended to read:

22105. Upon the filing of an application pursuant to Section 22101 and the payment of the fees, the commissioner shall investigate the applicant and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or any person responsible for the conduct of the applicant's lending activities in this state, if the applicant is a partnership. If the applicant is a corporation, trust, limited liability company, or association, including an unincorporated organization, the commissioner shall investigate the applicant, its principal officers, directors, managing members, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities or any person responsible for the conduct of the applicant's lending activities in this state. Upon the filing of an application pursuant to Section 22102 and the payment of the fees, the commissioner shall investigate the person responsible for the lending activity of the licensee at the new location described in the application. The investigation may be limited to information that was not included

in prior applications filed pursuant to this division. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

For the purposes of this section, "principal officers" shall mean president, chief executive officer, treasurer, and chief financial officer, as may be applicable, and any other officer with direct responsibility for the conduct of the applicant's lending activities within the state.

SEC. 20. Section 22109 of the Financial Code is amended to read:

22109. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 21. Section 22112 of the Financial Code is amended to read:

22112. (a) A licensee shall maintain a surety bond in accordance with this subdivision in the amount of twenty-five thousand dollars ($25,000). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner

within 10 days of execution. For licensees with multiple licensed locations, only one surety bond is required. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon recovery of any action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

SEC. 22. Section 22169 is added to the Financial Code, to read:

22169. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any finance lender, broker, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is

immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender and from engaging in any business activity on the premises where a finance lender is conducting business.

SEC. 23. Section 22170 is added to the Financial Code, to read:

22170. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 24. Section 23011.5 is added to the Financial Code, to read:

23011.5. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any deferred deposit originator, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the deferred deposit originator, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing

or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a deferred deposit originator and from engaging in any business activity on the premises where a deferred deposit originator is conducting business.

SEC. 25. Section 23015 is added to the Financial Code, to read:

23015. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 26. Section 30218 is added to the Financial Code, to read:

30218. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 27. Section 30609 is added to the Financial Code, to read:

30609. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any person who operates a securities depository, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the securities depository, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a securities depository and from engaging in any business activity on the premises where a securities depository is conducting business.

SEC. 28. Section 50123 of the Financial Code is amended to read:

50123. (a) A license shall remain in effect until suspended, surrendered, or revoked.

(b) A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall inform the commissioner in writing and, at that time, surrender the license and all other indicia of licensure to the commissioner. The licensee shall file a plan for the withdrawal from regulated business, and the plan shall include a timetable for the disposition of the business. The plan shall also include a closing audit, review, or other agreed upon procedures performed by an independent certified public accountant prescribed by rule or order of the commissioner. Upon receipt of the written notice and plan, the commissioner shall review the plan and, if satisfactory to the commissioner, shall accept the surrender of the license. A license is not surrendered until its tender is accepted in writing by the commissioner after a review, and a finding has been made on the licensee's plan required to be filed by this section, and a determination has been made that there is no violation of this law.

(c) A licensee may not surrender its license under this division and, under the authority of a real estate license, subsequently engage in residential mortgage lending or servicing activities that are subject to this division, unless the licensee has been licensed under this division for a period of five years or more.

SEC. 29. Section 50205 of the Financial Code is amended to read:

50205. (a) A licensee shall maintain a surety bond in accordance with this subdivision. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division. The bond shall be payable when the licensee fails to comply with a provision of this division and shall be in the amount of fifty thousand dollars ($50,000), and may be increased by order of the commissioner to one hundred thousand dollars ($100,000) upon a determination by the commissioner that the licensee is not in compliance with any provision of this chapter or any rule or order adopted or issued by the commissioner to implement or enforce provisions of this chapter. The bond shall be payable to the commissioner and issued by an insurance company authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within 10 days of its execution.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon the recovery of an action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

SEC. 30. Section 50512 is added to the Financial Code, to read:

50512. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 31. 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 102

An act to amend Section 121 of the Military and Veterans Code, relating to the state militia.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 121 of the Military and Veterans Code is amended to read:

121. The unorganized militia consists of all persons liable to service in the militia, but not members of the National Guard, the State Military Reserve, or the Naval Militia.

CHAPTER 103

An act to amend Section 95400 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 95400 of the Public Utilities Code is amended to read:

95400. The government of the district shall be vested in a board of seven members. Two of the directors shall be appointed by the Board of Supervisors of the County of Santa Barbara. Two of the directors shall be appointed by the City Council of the City of Santa Barbara. One of the directors shall be appointed by the City Council of the City of Carpinteria. One of the directors shall be appointed by the City Council

of the City of Goleta. The six directors so appointed shall choose and appoint the seventh director. The board shall elect its chairman, and a majority vote is necessary for the election of the chairman of the board.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 104

An act to amend Sections 11105 and 13300 of the Penal Code, relating to criminal records.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties,

Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, or city and county, or district, or any officer, or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, or city and county, or district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related

information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4.

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public

utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(9) (A) Any public utility as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was

acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D) (i) Authority for a cable corporation to request state or federal level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal level criminal history information under this paragraph shall commence July 1, 2005.

(10) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished.

The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(*l*) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 777.5 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 777.5 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 777.5 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result

of an application by an agency, organization, or individual not defined in subdivision (k), (*l*), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (*l*), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

SEC. 2. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their

duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(12) The subject of the local summary criminal history information.

(13) Any person or entity when access is expressly authorized by statute when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local

summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parents having failed to provide support for the minor children, consistent with Section 17531 of the Family Code.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, which operates a nuclear energy facility when access is needed to assist in employing persons to work at the facility, provided that, if the local agency supplies the information, it shall furnish a copy of this information to the person to whom the information relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when this information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility, as defined in Section 216 of the Public Utilities Code, when access is needed to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the information pursuant to this paragraph, it shall furnish a copy of the information to the person to whom the information relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(10) Any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor Code, for the purposes of consenting to, or approving of, the prospective

concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

Any local government's request for local summary criminal history information for purposes of screening a prospective concessionaire and their affiliates or associates before approving or denying an application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest is deemed a "compelling need" as required by this subdivision. However, only local summary criminal history information pertaining to criminal convictions may be obtained pursuant to this paragraph.

Any information obtained from the local summary criminal history is confidential and the receiving local government shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the local government and all copies made from it shall be destroyed not more than 30 days after the local government's final decision to grant or deny consent to, or approval of, the prospective concessionaire's application for, or acquisition of, a beneficial interest in a concession, lease, or other property interest. Nothing in this section shall be construed as imposing any duty upon a local government, or any officer or official thereof, to request local summary criminal history information on any current or prospective concessionaire or their affiliates or associates.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee not to exceed ten dollars ($10) to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency required to pay a fee to the local agency for information received under

this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(j) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(k) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(*l*) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred entry of judgment program to a government agency employer of that peace officer or applicant.

(m) Notwithstanding subdivision (k) or (*l*), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without attempting to determine whether diversion or a deferred entry of judgment program has been successfully completed.

(2) Information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

(3) Information concerning an arrest without a disposition without attempting to determine whether diversion has been successfully completed or the individual was exonerated.

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 105

An act to amend Section 9202 of the Probate Code, relating to decedents' estates.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 9202 of the Probate Code is amended to read:

9202. (a) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of Health Care Services notice of the decedent's death in the manner provided in Section 215 if the general personal representative knows or has reason to believe that the decedent received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or was the surviving spouse of a person who received that health care. The director has four months after notice is given in which to file a claim.

(b) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of the California Victim Compensation and Government Claims Board notice of the decedent's death in the manner provided in Section 216 if the general personal representative or estate attorney knows or has reason to believe that an heir is confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation or confined in any county or city jail, road camp, industrial farm, or other local correctional facility. The director of the board shall have four months after that notice is received in which to pursue collection of any outstanding restitution fines or orders.

(c) (1) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Franchise Tax Board notice of the

administration of the estate. The notice shall be given as provided in Section 1215.

(2) The provisions of this subdivision shall apply to estates for which letters are first issued on or after July 1, 2008.

CHAPTER 106

An act to amend Sections 313 and 21280 of, to amend and repeal Section 467 of, to add Section 21281.5 to, and to repeal Section 21283 of, the Vehicle Code, relating to electric personal assistive mobility devices.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 313 of the Vehicle Code is amended to read:

313. The term "electric personal assistive mobility device" or "EPAMD" means a self-balancing, nontandem two-wheeled device, that is not greater than 20 inches deep and 25 inches wide and can turn in place, designed to transport only one person, with an electric propulsion system averaging less than 750 watts (1 horsepower), the maximum speed of which, when powered solely by a propulsion system on a paved level surface, is no more than 12.5 miles per hour.

SEC. 2. Section 467 of the Vehicle Code, as amended by Section 3 of Chapter 404 of the Statutes of 2004, is amended to read:

467. (a) A "pedestrian" is a person who is afoot or who is using any of the following:

(1) A means of conveyance propelled by human power other than a bicycle.

(2) An electric personal assistive mobility device.

(b) "Pedestrian" includes a person who is operating a self-propelled wheelchair, motorized tricycle, or motorized quadricycle and, by reason of physical disability, is otherwise unable to move about as a pedestrian, as specified in subdivision (a).

SEC. 3. Section 467 of the Vehicle Code, as amended by Section 4 of Chapter 404 of the Statutes of 2004, is repealed.

SEC. 4. Section 21280 of the Vehicle Code is amended to read:

21280. (a) The Legislature finds and declares all of the following:

(1) This state has severe traffic congestion and air pollution problems, particularly in its cities, and finding ways to reduce these problems is of paramount importance.

(2) Reducing the millions of single passenger automobile trips of five miles or less that Californians take each year will significantly reduce the pollution caused by fuel emissions and aggravated by automobile congestion.

(3) Electric personal assistive mobility devices that meet the definition in Section 313 operate solely on electricity and employ advances in technology to safely integrate the user in pedestrian transportation.

(4) Electric personal assistive mobility devices enable California businesses, public officials, and individuals to travel farther and carry more without the use of traditional vehicles, thereby promoting gains in productivity, minimizing environmental impacts, and facilitating better use of public ways.

(b) The Legislature is adding this article as part of its program to promote the use of no-emission transportation.

SEC. 5. Section 21281.5 is added to the Vehicle Code, to read:

21281.5. (a) A person shall not operate an EPAMD on a sidewalk, bike path, pathway, trail, bike lane, street, road, or highway at a speed greater than is reasonable and prudent having due regard for weather, visibility, pedestrians, and other conveyance traffic on, and the surface, width, and condition of, the sidewalk, bike path, pathway, trail, bike lane, street, road, or highway.

(b) A person shall not operate an EPAMD at a speed that endangers the safety of persons or property.

(c) A person shall not operate an EPAMD on a sidewalk, bike path, pathway, trail, bike lane, street, road, or highway with willful or wanton disregard for the safety of persons or property.

(d) A person operating an EPAMD on a sidewalk, bike path, pathway, trail, bike lane, street, road, or highway shall yield the right-of-way to all pedestrians on foot, including persons with disabilities using assistive devices and service animals that are close enough to constitute a hazard.

SEC. 6. Section 21283 of the Vehicle Code is repealed.

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 107

An act to amend Section 7027.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 7027.5 of the Business and Professions Code is amended to read:

7027.5. (a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub provided the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, an "outdoor cooking center" means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(4) Any work performed in connection with a residential landscape project specified in paragraph (2) or (3) that is outside of the field and scope of activities authorized to be performed under the Landscape

Contractor classification (C-27), as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may only be performed by a landscape contractor if the landscape contractor also either holds an appropriate specialty license classification to perform the work or is licensed as a general building contractor. If the landscape contractor neither holds an appropriate specialty license classification to perform the work nor is licensed as a general building contractor, the work shall be performed by a specialty contractor holding the appropriate license classification or by a general building contractor performing work in accordance with the requirements of subdivision (b) of Section 7057.

(c) A violation of this section shall be cause for disciplinary action.

CHAPTER 108

An act to amend Section 361.3 of the Welfare and Institutions Code, relating to adoption.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. It is the intent of the Legislature to support counties in their work to promote finding families for children who are in the foster care system. In doing this work, counties have discovered children who were adopted, but their adoptions were disrupted and the children's custody was returned to the counties. These children should be afforded the same opportunity to explore birth family connections and achieve permanency as children who remain in planned permanency living arrangements.

SEC. 2. Section 361.3 of the Welfare and Institutions Code is amended to read:

361.3. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether placement with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:

(1) The best interest of the child, including special physical, psychological, educational, medical, or emotional needs.

(2) The wishes of the parent, the relative, and child, if appropriate.

(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.

(4) Placement of siblings and half siblings in the same home, if that placement is found to be in the best interest of each of the children as provided in Section 16002.

(5) The good moral character of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect.

(6) The nature and duration of the relationship between the child and the relative, and the relative's desire to care for, and to provide legal permanency for, the child if reunification is unsuccessful.

(7) The ability of the relative to do the following:

(A) Provide a safe, secure, and stable environment for the child.

(B) Exercise proper and effective care and control of the child.

(C) Provide a home and the necessities of life for the child.

(D) Protect the child from his or her parents.

(E) Facilitate court-ordered reunification efforts with the parents.

(F) Facilitate visitation with the child's other relatives.

(G) Facilitate implementation of all elements of the case plan.

(H) Provide legal permanence for the child if reunification fails.

However, any finding made with respect to the factor considered pursuant to this subparagraph and pursuant to subparagraph (G) shall not be the sole basis for precluding preferential placement with a relative.

(I) Arrange for appropriate and safe child care, as necessary.

(8) The safety of the relative's home. For a relative to be considered appropriate to receive placement of a child under this section, the relative's home shall first be approved pursuant to the process and standards described in subdivision (d) of Section 309.

In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a county social worker's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control. The court shall order the parent to disclose to the county social worker the names, residences, and any other known identifying information of any maternal or paternal relatives of the child. This inquiry shall not be construed, however, to guarantee that the child will be placed with any person so identified. The county social worker shall initially contact the relatives given preferential consideration for placement to determine if they desire the child to be placed with them. Those desiring placement shall be assessed according to the factors enumerated in this subdivision. The county social worker shall document these efforts in the social study

prepared pursuant to Section 358.1. The court shall authorize the county social worker, while assessing these relatives for the possibility of placement, to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected likely date for the child's return home or placement for adoption or legal guardianship. However, this investigation shall not be construed as good cause for continuance of the dispositional hearing conducted pursuant to Section 358.

(b) In any case in which more than one appropriate relative requests preferential consideration pursuant to this section, each relative shall be considered under the factors enumerated in subdivision (a).

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

(2) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great" or "grand" or the spouse of any of these persons even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for the placement of the child: an adult who is a grandparent, aunt, uncle, or sibling.

(d) Subsequent to the hearing conducted pursuant to Section 358, whenever a new placement of the child must be made, consideration for placement shall again be given as described in this section to relatives who have not been found to be unsuitable and who will fulfill the child's reunification or permanent plan requirements. In addition to the factors described in subdivision (a), the county social worker shall consider whether the relative has established and maintained a relationship with the child.

(e) If the court does not place the child with a relative who has been considered for placement pursuant to this section, the court shall state for the record the reasons placement with that relative was denied.

(f) (1) With respect to a child who satisfies the criteria set forth in paragraph (2), the department and any licensed adoption agency may search for a relative and furnish identifying information relating to the child to that relative if it is believed the child's welfare will be promoted thereby.

(2) Paragraph (1) shall apply if both of the following conditions are satisfied:

(A) The child was previously a dependent of the court.

(B) The child was previously adopted and the adoption has been disrupted, set aside pursuant to Section 9100 or 9102 of the Family Code,

or the child has been released into the custody of the department or a licensed adoption agency by the adoptive parent or parents.

(3) As used in this subdivision, "relative" includes a member of the child's birth family and nonrelated extended family members, regardless of whether the parental rights were terminated, provided that both of the following are true:

(A) No appropriate potential caretaker is known to exist from the child's adoptive family, including nonrelated extended family members of the adoptive family.

(B) The child was not the subject of a voluntary relinquishment by the birth parents pursuant to Section 8700 of the Family Code or Section 1255.7 of the Health and Safety Code.

CHAPTER 109

An act to amend Sections 56100.1 and 56700.1 of, and to add Section 57009 to, the Government Code, relating to local agencies.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 56100.1 of the Government Code is amended to read:

56100.1. A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's Web site, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure otherwise required by Section 56700.1, the Political Reform Act (Title 9 (commencing with Section 81000)), or local ordinance.

SEC. 2. Section 56700.1 of the Government Code is amended to read:

56700.1. Expenditures for political purposes related to a proposal for a change of organization or reorganization that will be submitted to

a commission pursuant to this part, and, contributions in support of or in opposition to those proposals, shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 (commencing with Section 81000)) as provided for local initiative measures.

SEC. 3. Section 57009 is added to the Government Code, to read:

57009. Expenditures for political purposes related to proceedings for a change of organization or reorganization that will be conducted pursuant to this part, and contributions in support of, or in opposition to, those proceedings shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 (commencing with Section 81000)), as provided for local initiative measures.

CHAPTER 110

An act to amend Section 8263 of the Education Code, relating to child care.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family is (A) a current aid recipient, (B) income eligible, (C) homeless, or (D) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family needs the child care services (A) because the child is identified by a legal, medical, social services agency, or emergency shelter as (i) a recipient of protective services or (ii) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (B) because the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or

seeking employment, (iii) seeking permanent housing for family stability, or (iv) incapacitated.

(b) Except as provided in Article 15.5 (commencing with Section 8350), priority for state and federally subsidized child development services is as follows:

(1) (A) First priority shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(B) A family who is receiving child care on the basis of being a child at risk of abuse, neglect, or exploitation, as defined in subdivision (k) of Section 8208, is eligible to receive services pursuant to subparagraph (A) for up to three months, unless the family becomes eligible pursuant to subparagraph (C).

(C) A family may receive child care services for up to 12 months on the basis of a certification by the county child welfare agency that child care services continue to be necessary or, if the child is receiving child protective services during that period of time, and the family requires child care and remains otherwise eligible. This time limit does not apply if the family's child care referral is recertified by the county child welfare agency.

(2) Second priority shall be given equally to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the Superintendent, shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first. If there is no family of the same priority with a child with exceptional needs, the same priority family that has been on the waiting list for the longest time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The Superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other provision of law, in order to promote continuity of services, a family enrolled in a state or federally funded

child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded child care and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible prior to the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs.

(d) In order to promote continuity of services, the Superintendent may extend the 60-working-day period specified in subdivision (a) of Section 18101 of Title 5 of the California Code of Regulations for an additional 60 working days if he or she determines that opportunities for employment have diminished to the degree that one or both parents cannot reasonably be expected to find employment within 60 working days and granting the extension is in the public interest. The scope of extensions granted pursuant to this subdivision shall be limited to the necessary geographic areas and affected persons, which shall be described in the Superintendent's order granting the extension. It is the intent of the Legislature that extensions granted pursuant to this subdivision improve services in areas with high unemployment rates and areas with disproportionately high numbers of seasonal agricultural jobs.

(e) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. A standard, rule, or regulation shall not require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, if there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that the child is not suffering from that contagious or infectious disease.

(f) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Care Services relative to health care screening and the provision of health

care services. The Superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of children who are ill or children with exceptional needs.

(g) (1) The Superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter, including families receiving services under paragraph (1) of subdivision (b). Families receiving services under subparagraph (B) of paragraph (1) of subdivision (b) may be exempt from these fees for up to three months. Families receiving services under subparagraph (C) of paragraph (1) of subdivision (b) may be exempt from these fees for up to 12 months. The cumulative period of time of exemption from these fees for families receiving services under paragraph (1) of subdivision (b) shall not exceed 12 months.

(2) The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the federal Social Security Act and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code shall not be included as income for the purposes of determining the amount of the family fee.

(h) The family fee schedule shall include, but not be limited to, the following restrictions:

(1) Fees shall not be assessed for families whose children are enrolled in the state preschool program.

(2) A contractor or provider may require parents to provide diapers. A contractor or provider offering field trips either may include the cost of the field trips within the service rate charged to the parent or may charge parents an additional fee. Federal or state money shall not be used to reimburse parents for the costs of field trips if those costs are charged as an additional fee. A contractor or provider that charges parents an additional fee for field trips shall inform parents, prior to enrolling the child, that a fee may be charged and that no reimbursement will be available. A contractor or provider may charge parents for field trips or require parents to provide diapers only under the following circumstances:

(A) The provider has a written policy that is adopted by the agency's governing board that includes parents in the decisionmaking process regarding both of the following:

(i) Whether or not, and how much, to charge for field trip expenses.

(ii) Whether or not to require parents to provide diapers.

(B) The maximum total of charges per child in a contract year does not exceed twenty-five dollars ($25).

(C) A child shall not be denied participation in a field trip due to the parent's inability or refusal to pay the charge. Adverse action shall not be taken against a parent for that inability or refusal.

Each contractor or provider shall establish a payment system that prevents the identification of children based on whether or not their parents have paid a field trip charge.

Expenses incurred and income received for field trips pursuant to this section shall be reported to the department. The income received for field trips shall be reported specifically as restricted income.

(i) The Superintendent shall establish guidelines for the collection of employer-sponsored child care benefit payments from a parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(j) The Superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(k) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

CHAPTER 111

An act to amend Section 186.2 of the Penal Code, relating to crimes.

[Approved by Governor July 20, 2007. Filed with
Secretary of State July 20, 2007.]

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

SECTION 1. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of this chapter, the following definitions apply:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 550.

(21) False or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code.

(22) Money laundering, as defined in Section 186.10.

(23) Offenses relating to the counterfeit of a registered mark, as specified in Section 350.

(24) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.

(25) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(26) Subdivision (a) of Section 186.22, or a felony subject to enhancement as specified in subdivision (b) of Section 186.22.

(27) Any offenses related to fraud or theft against the state's beverage container recycling program, including, but not limited to, those offenses specified in this subdivision and those criminal offenses specified in the California Beverage Container Recycling and Litter Reduction Act, commencing at Section 14500 of the Public Resources Code.

(28) Human trafficking, as defined in Section 236.1.

(29) Theft of personal identifying information, as defined in Section 530.5.

(30) Offenses involving the theft of a motor vehicle, as specified in Section 10851 of the Vehicle Code.

(b) (1) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this chapter, that meet the following requirements:

(A) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(B) Are not isolated events.

(C) Were committed as a criminal activity of organized crime.

(2) Acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods and services such as narcotics, prostitution, loan-sharking, gambling, and pornography, or that, through planning and coordination of individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, fraud against the beverage container recycling program, or systematically encumbering the assets of a business for the purpose of defrauding creditors. "Organized crime" also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22. "Organized crime" also means false or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code, and the theft of personal identifying information, as defined in Section 530.5.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

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 112

An act to amend Section 399.20 of the Public Utilities Code, relating to electricity.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 399.20 of the Public Utilities Code is amended to read:

399.20. (a) It is the policy of this state and the intent of the Legislature to encourage energy production from renewable energy resources at public water and wastewater facilities in an amount commensurate with water-related electricity demand.

(b) As used in this section, "electric generation facility" means an electric generation facility, owned and operated by a public water or wastewater agency that is a retail customer of an electrical corporation, and that meets all of the following criteria:

(1) Has an effective capacity of not more than one megawatt and is located on property owned or under the control of the public water or wastewater agency.

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is sized to offset part or all of the electricity demand of the public water or wastewater agency.

(4) Is strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

(5) Is an eligible renewable energy resource, as defined in Section 399.12.

(c) Every electrical corporation shall file with the commission a standard tariff for electricity generated by an electric generation facility.

(d) The tariff shall provide for payment for every kilowatthour of electricity generated by an electric generation facility at the market price as determined by the commission pursuant to Section 399.15 for a period of 10, 15, or 20 years, as authorized by the commission.

(e) Every electrical corporation shall make this tariff available to public water or wastewater agencies that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 250 megawatts. An electrical corporation may make the terms of the tariff available to public water or wastewater agencies in the form of a standard contract subject to commission approval. Each electrical corporation shall only be required to offer service or contracts under this section until that electrical corporation meets its proportionate share of the 250 megawatts based on the ratio of its peak demand to the total statewide peak demand of all electrical corporations.

(f) Every kilowatthour of electricity generated by the electric generation facility shall count toward the electrical corporation's renewables portfolio standard annual procurement targets for purposes of paragraph (1) of subdivision (b) of Section 399.15.

(g) The physical generating capacity of an electric generation facility shall count toward the electrical corporation's resource adequacy requirement for purposes of Section 380.

(h) Upon approval by the commission, any tariff or contract authorized by this section may be made available to an electric generation facility that has an effective capacity of not more than 1.5 megawatts if that electrical generation facility otherwise complies with all of the provisions of this section.

CHAPTER 113

An act to amend Sections 1987.1, 2020.510, 2025.240, 2025.270, 2030.020, 2030.260, 2031.020, 2031.030, 2031.260, 2033.020, and 2033.250 of, and to add Sections 1170.8 and 1170.9 to, the Code of Civil Procedure, relating to civil discovery.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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

SECTION 1. Section 1170.8 is added to the Code of Civil Procedure, to read:

1170.8. In any action under this chapter, a discovery motion may be made at any time upon giving five days' notice.

SEC. 2. Section 1170.9 is added to the Code of Civil Procedure, to read:

1170.9. The Judicial Council shall adopt rules, not inconsistent with statute, prescribing the time for filing and serving opposition and reply papers, if any, relating to a motion under Section 1167.4, 1170.7, or 1170.8.

SEC. 3. Section 1987.1 of the Code of Civil Procedure is amended to read:

1987.1. When a subpoena requires the attendance of a witness or the production of books, documents or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by the party, the witness, any consumer described in Section 1985.3, or any employee described in Section 1985.6, or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the parties, the witness, the consumer, or the employee from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the witness, consumer, or employee. Nothing herein shall require any person to move to quash, modify, or condition any subpoena duces tecum of personal records of any consumer served under paragraph (1) of subdivision (b) of Section 1985.3 or employment records of any employee served under paragraph (1) of subdivision (b) of Section 1985.6.

SEC. 4. Section 2020.510 of the Code of Civil Procedure is amended to read:

2020.510. (a) A deposition subpoena that commands the attendance and the testimony of the deponent, as well as the production of business records, documents, and tangible things, shall:

(1) Comply with the requirements of Section 2020.310.

(2) Designate the business records, documents, and tangible things to be produced either by specifically describing each individual item or by reasonably particularizing each category of item.

(3) Specify any testing or sampling that is being sought.

(b) A deposition subpoena under subdivision (a) need not be accompanied by an affidavit or declaration showing good cause for the production of the documents and things designated.

(c) If, as described in Section 1985.3, the person to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to a consumer, the service of the deposition subpoena shall be accompanied

either by a copy of the proof of service of the notice to the consumer described in subdivision (e) of Section 1985.3, or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.3.

(d) If, as described in Section 1985.6, the person to whom the deposition subpoena is directed is a witness and the business records described in the deposition subpoena are employment records pertaining to an employee, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the employee described in subdivision (e) of Section 1985.6, or by the employee's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.6.

SEC. 5. Section 2025.240 of the Code of Civil Procedure is amended to read:

2025.240. (a) The party who prepares a notice of deposition shall give the notice to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys for parties on whom it is served.

(b) If, as defined in subdivision (a) of Section 1985.3 or subdivision (a) of Section 1985.6, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer or employment records of an employee, the subpoenaing party shall serve on that consumer or employee all of the following:

(1) A notice of the deposition.

(2) The notice of privacy rights specified in subdivision (e) of Section 1985.3 or in subdivision (e) of Section 1985.6.

(3) A copy of the deposition subpoena.

(c) If the attendance of the deponent is to be compelled by service of a deposition subpoena under Chapter 6 (commencing with Section 2020.010), an identical copy of that subpoena shall be served with the deposition notice.

SEC. 6. Section 2025.270 of the Code of Civil Procedure is amended to read:

2025.270. (a) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

(c) Notwithstanding subdivisions (a) and (b), if, as defined in Section 1985.3 or 1985.6, the party giving notice of the deposition is a

subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer or employment records of an employee, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena.

(d) On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under Section 2025.420.

SEC. 7. Section 2030.020 of the Code of Civil Procedure is amended to read:

2030.020. (a) A defendant may propound interrogatories to a party to the action without leave of court at any time.

(b) A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first.

(c) Notwithstanding subdivision (b), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, a plaintiff may propound interrogatories to a party without leave of court at any time that is five days after service of the summons on, or appearance by, that party, whichever occurs first.

(d) Notwithstanding subdivisions (b) and (c), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.

SEC. 8. Section 2030.260 of the Code of Civil Procedure is amended to read:

2030.260. (a) Within 30 days after service of interrogatories, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, the party to whom the interrogatories are propounded shall have five days from the date of service to respond, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(c) The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action. On motion, with or without notice, the court may relieve the party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

SEC. 9. Section 2031.020 of the Code of Civil Procedure is amended to read:

2031.020. (a) A defendant may make a demand for inspection without leave of court at any time.

(b) A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or appearance by, the party to whom the demand is directed, whichever occurs first.

(c) Notwithstanding subdivision (b), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, a plaintiff may make a demand for inspection without leave of court at any time that is five days after service of the summons on, or appearance by, the party to whom the demand is directed, whichever occurs first.

(d) Notwithstanding subdivisions (b) and (c), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

SEC. 10. Section 2031.030 of the Code of Civil Procedure is amended to read:

2031.030. (a) A party demanding an inspection shall number each set of demands consecutively.

(b) In the first paragraph immediately below the title of the case, there shall appear the identity of the demanding party, the set number, and the identity of the responding party.

(c) Each demand in a set shall be separately set forth, identified by number or letter, and shall do all of the following:

(1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(2) Specify a reasonable time for the inspection that is at least 30 days after service of the demand, unless the court for good cause shown has granted leave to specify an earlier date. In an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, the demand shall specify a reasonable time for the inspection that is at least five days after service of the demand, unless the court, for good cause shown, has granted leave to specify an earlier date.

(3) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(4) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will permanently alter or destroy the item involved.

SEC. 11. Section 2031.260 of the Code of Civil Procedure is amended to read:

2031.260. (a) Within 30 days after service of an inspection demand, the party to whom the demand is directed shall serve the original of the response to it on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand, the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, the party to whom an inspection demand is directed shall have at least five days from the date of service of the demand to respond, unless on motion of the party making the demand, the court has shortened the time for the response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response.

SEC. 12. Section 2033.020 of the Code of Civil Procedure is amended to read:

2033.020. (a) A defendant may make requests for admission by a party without leave of court at any time.

(b) A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first.

(c) Notwithstanding subdivision (b), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, a plaintiff may make requests for admission by a party without leave of court at any time that is five days after service of the summons on, or appearance by, that party, whichever occurs first.

(d) Notwithstanding subdivisions (b) and (c), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.

SEC. 13. Section 2033.250 of the Code of Civil Procedure is amended to read:

2033.250. (a) Within 30 days after service of requests for admission, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, the party to whom the request is directed shall have

at least five days from the date of service to respond, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

CHAPTER 114

An act to amend Sections 36522, 36535, 36541, 36622, 36623, 36636, 36712, 36714, and 36735 of the Streets and Highways Code, relating to improvement districts.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 36522 of the Streets and Highways Code is amended to read:

36522. Proceedings to establish a parking and business improvement area shall be instituted by the adoption by the city council of a resolution of intention to establish the area. The resolution of intention shall do all of the following:

(a) State that a parking and business improvement area is proposed to be established pursuant to this chapter and describe the boundaries of the territory proposed to be included in the area and the boundaries of each separate benefit zone to be established within the area. The boundaries of the area may be described by reference to a map on file in the office of the clerk, showing the proposed area.

(b) State the name of the proposed area.

(c) State the type or types of improvements and activities proposed to be funded by the levy of assessments on businesses in the area. The resolution of intention shall specify any improvements to be acquired.

(d) State that, except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities within the area.

(e) State the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(f) State whether new businesses will be exempt from the levy of the assessment, pursuant to Section 36531.

(g) Fix a time and place for a public hearing on the establishment of the parking and business improvement area and the levy of assessments,

which shall be consistent with the requirements of Section 54954.6 of the Government Code.

(h) State that at the hearing the testimony of all interested persons for or against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities will be heard. The notice shall also describe, in summary, the effect of protests made by business owners against the establishment of the area, the extent of the area, and the furnishing of a specified type of improvement or activity, as provided in Section 36524.

SEC. 2. Section 36535 of the Streets and Highways Code is amended to read:

36535. (a) The city council shall hold the public hearing at the time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525. The city council may continue the public hearing from time to time.

(b) During the course or upon the conclusion of the public hearing, the city council may order changes in any of the matters provided in the report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area and any benefit zones within the area. The city council shall not change the boundaries to include any territory that will not, in its judgment, benefit by the improvement or activity.

(c) At the conclusion of the public hearing, the city council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.

(d) Notwithstanding subdivision (c), if the primary purpose of the area is promotion of tourism, the city council may adopt a resolution confirming the report as submitted by the advisory board, or may adopt a resolution continuing the program and assessments as levied in the then current year without change, and that resolution shall constitute the levy of an assessment for the fiscal year referred to in the report. As an alternative, the city council may modify the report and adopt a resolution confirming the report as modified, but in that case the city council may adopt the resolution only after providing notice of the proposed changes as specified in Section 36523 and only after conducting a public hearing on the resolution as provided in Sections 36524 and 36525.

SEC. 3. Section 36541 of the Streets and Highways Code is amended to read:

36541. (a) The city council shall modify the basis and method of levying the assessment or the boundaries of the area by adopting an ordinance after holding a public hearing on the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be consistent with the requirements of Section 54954.6 of the Government Code. Notice of the public hearing shall be published and shall be mailed to each owner of a business affected by the proposed modification, as provided in Section 36523. The public hearing shall be conducted as provided in Sections 36524 and 36525.

SEC. 4. Section 36622 of the Streets and Highways Code is amended to read:

36622. The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. Under no circumstances shall the boundaries of a proposed property assessment district overlap with the boundaries of another existing property assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan shall also state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for any properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(*l*) Any other item or matter required to be incorporated therein by the city council.

SEC. 5. Section 36623 of the Streets and Highways Code is amended to read:

36623. If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code. If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed.

SEC. 6. Section 36636 of the Streets and Highways Code is amended to read:

36636. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section

36623. Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

SEC. 7. Section 36712 of the Streets and Highways Code is amended to read:

36712. (a) Upon the submission of a written petition, signed by either property owners paying more than two-thirds of the proposed assessment or by business owners paying more than two-thirds of the proposed assessment, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

(b) The petition of the property owners or the business owners required pursuant to subdivision (a) shall include all of the following:

(1) A map showing the general boundaries of the proposed district.

(2) A general description of the proposed activities and improvements to be carried out by the district.

(3) A general description of how the proposed district will be financed, and whether bonds are proposed to be issued.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or on businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) Order the preparation of a management district plan by a registered professional engineer certified by the state.

SEC. 8. Section 36714 of the Streets and Highways Code is amended to read:

36714. (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedures shall

comply with Section 53753 of the Government Code. Notwithstanding subdivision (e) of Section 53753 of the Government Code, the city may not establish the district or levy assessments if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed one-third of the total assessment ballots submitted, and not withdrawn, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed.

SEC. 9. Section 36735 of the Streets and Highways Code is amended to read:

36735. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36714. Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

CHAPTER 115

An act to amend Section 2025.510 of the Code of Civil Procedure, relating to depositions.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2025.510 of the Code of Civil Procedure is amended to read:

2025.510. (a) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed.

(b) The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party.

(c) Notwithstanding subdivision (b) of Section 2025.320, any other party or the deponent, at the expense of that party or deponent, may obtain a copy of the transcript.

(d) If the deposition officer receives a request from a party for an original or a copy of the deposition transcript, or any portion thereof, and the full or partial transcript will be available to that party prior to the time the original or copy would be available to any other party, the deposition officer shall immediately notify all other parties attending the deposition of the request, and shall, upon request by any party other than the party making the original request, make that copy of the full or partial deposition transcript available to all parties at the same time.

(e) Stenographic notes of depositions shall be retained by the reporter for a period of not less than eight years from the date of the deposition, where no transcript is produced, and not less than one year from the date on which the transcript is produced. Those notes may be either on paper or electronic media, as long as it allows for satisfactory production of a transcript at any time during the periods specified.

(f) At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audio or video technology shall promptly do both of the following:

(1) Permit that other party to hear the audio recording or to view the video recording.

(2) Furnish a copy of the audio or video recording to that other party on receipt of payment of the reasonable cost of making that copy of the recording.

(g) If the testimony at the deposition is recorded both stenographically, and by audio or video technology, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(h) (1) The requesting attorney or party appearing in propria persona shall timely pay the deposition officer or the entity providing the services of the deposition officer for the transcription or copy of the transcription

described in subdivision (b) or (c), and any other deposition products or services that are requested either orally or in writing.

(2) This subdivision shall apply unless responsibility for the payment is otherwise provided by law or unless the deposition officer or entity is notified in writing at the time the services or products are requested that the party or another identified person will be responsible for payment.

(3) This subdivision does not prohibit or supersede an agreement between an attorney and a party allocating responsibility for the payment of deposition costs to the party.

(i) For purposes of this section, "deposition product or service" means any product or service provided in connection with a deposition that qualifies as shorthand reporting, as described in Section 8017 of the Business and Professions Code, and any product or service derived from that shorthand reporting.

CHAPTER 116

An act to amend Section 20221 of the Public Contract Code and to amend Section 130232 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

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) 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) 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), 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, that 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). "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, either written or oral, that permit prices and terms to be compared whenever the expected expenditure required exceeds two thousand five hundred dollars ($2,500), but not one hundred thousand dollars ($100,000).

CHAPTER 117

An act to amend Section 11691 of the Insurance Code, relating to workers' compensation.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11691 of the Insurance Code is amended to read:

11691. (a) In order to provide protection to the workers of this state in the event that the insurers issuing workers' compensation insurance to employers fail to pay compensable workers' compensation claims when due, except in the case of the State Compensation Insurance Fund, every insurer desiring admission to transact workers' compensation insurance, or workers' compensation reinsurance business, or desiring to reinsure the injury, disablement, or death portions of policies of workers' compensation insurance under the class of disability insurance shall, as a prerequisite to admission, or ability to reinsure the injury, disablement, or death portion of policies of workers' compensation insurance under the class of disability insurance, deposit cash instruments or approved interest-bearing securities or approved stocks readily

convertible into cash, investment certificates, or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Deposit Insurance Corporation, certificates of deposit or savings deposits in a bank licensed to do business in this state, or approved letters of credit that perform in material respects as any other security allowable as a form of deposit for purposes of a workers' compensation deposit and that meet the standard set forth in Section 922.5, or approved securities registered with a qualified depository located in a reciprocal state as defined in Section 1104.9, with that deposit to be in an amount and subject to any exceptions as set forth in this article. The deposit shall be made from time to time as demanded by the commissioner and may be made with the Treasurer, or a bank or savings and loan association authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) or Division 2 (commencing with Section 5000) of the Financial Code, or a trust company. A deposit of securities registered with a qualified depository located in a reciprocal state as defined in Section 1104.9 may only be made in a bank or savings and loan association authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) or Division 2 (commencing with Section 5000) of the Financial Code, or a trust company, licensed to do business and located in this state that is a qualified custodian as defined in paragraph (1) of subdivision (a) of Section 1104.9 and that maintains deposits of at least seven hundred fifty million dollars ($750,000,000). The deposit shall be made subject to the approval of the commissioner under those rules and regulations that he or she shall promulgate. The deposit shall be maintained at a deposit value specified by the commissioner, but in any event no less than one hundred thousand dollars ($100,000), nor less than the reserves required of the insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550) of Chapter 1 of Part 3 of Division 2, relating to loss reserves on workers' compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11693, whichever is greater. The deposit shall be for the purpose of paying compensable workers' compensation claims under policies issued by the insurer or reinsured by the admitted reinsurer and expenses as provided in Section 11698.02, in the event the insurer or reinsurer fails to pay those claims when they come due. If the insurer providing the deposit is domiciled in a state where a state statute, regulation, or court decision provides that, with respect to covered claims within the deductible amount that are paid by a guarantee association after the entry of an order of liquidation under large deductible workers' compensation policies, any part of the reimbursement proceeds, other than the reasonable expenses of the receiver related to treatment of deductible

policy arrangements of insurance companies in liquidation, owed by insureds on those deductible amounts, whether paid directly or through a draw of collateral, are general assets of the estate, then the amount of the insurer's deposit pursuant to this article shall be calculated based on the gross amount of that insurer's liabilities for loss and loss adjustment expenses under those policies without regard to the deductible, and those reserves shall not be reduced by any collateral or reimbursement obligations insureds were required to provide under those policies.

Nothing in this section shall require that the deposit be calculated based on gross amounts of liabilities described above if the domiciliary state does not have an existing statute, regulation, or court decision providing that the reimbursement proceeds described above are general assets of the estate.

(b) Each insurer or reinsurer desiring to have the ability to reinsure the injury, disablement, or death portions of policies of workers' compensation under the class of disability insurance shall provide prior notice to the commissioner, in the manner and form prescribed by the commissioner of its intent to reinsure that insurance. In the event of late notice, a late filing fee shall be imposed on the reinsurer pursuant to Section 924 for failure to notify the commissioner of its intent to reinsure workers' compensation insurance.

(c) If the deposit required by this section is not made with the Treasurer, then the depositor shall execute a trust agreement in a form approved by the commissioner between the insurer, the institution in which the deposit is made or, where applicable, the qualified custodian of the deposit, and the commissioner, that grants to the commissioner the authority to withdraw the deposit as set forth in Sections 11691.2, 11696, 11698, and 11698.3. The insurer shall also execute and deliver in duplicate to the commissioner a power of attorney in favor of the commissioner for the purposes specified herein, supported by a resolution of the depositor's board of directors. The power of attorney and director's resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

(d) (1) The commissioner shall require payment in advance of fees for the initial filing of a trust agreement with a bank, savings and loan association, or trust company on deposits made pursuant to subdivision (a); for each amendment, supplement, or other change to the deposit agreement; for receiving and processing deposit schedules pursuant to this section; and for each withdrawal, substitution, or any other change in the deposit. The fees shall be set forth in the department's Schedule of Fees and Charges.

(2) The commissioner shall require payment in advance of a fee for the initial filing of each letter of credit utilized pursuant to subdivision (a). In addition, the commissioner shall require payment in advance of a fee for each amendment of a letter of credit. The fees shall be set forth in the department's Schedule of Fees and Charges.

(e) Any workers' compensation insurer that deposits cash or cash equivalents pursuant to this section shall be entitled to a prompt refund of those deposits in excess of the amount determined by the commissioner pursuant to subdivision (a). The commissioner shall cause to be refunded any deposits determined by the commissioner to be in excess of the amount required by subdivision (a) within 30 days of that determination. In the alternative, an insurer may use any excess deposit funds to offset a demand by the commissioner to increase its deposit due to the failure of a reinsurer to make a deposit pursuant to this section.

(f) (1) As of January 1, 2003, an admitted insurer reinsuring business covered in this article (hereafter referred to as reinsurer) shall identify to the commissioner, in a form prescribed by the commissioner, amounts deposited for credit in the name of each ceding insurer.

(2) Beginning January 1, 2005, all reinsurance agreements covering claims and obligations under business covered by this article, and allowable for purposes of granting a ceding carrier a deposit credit, shall include a provision granting the commissioner, in the event of a delinquency proceeding, receivership, or insolvency of a ceding insurer, any sums from a reinsurer's deposit that are necessary for the commissioner to pay those reinsured claims and obligations, or to ensure their payment by the California Insurance Guarantee Association, deemed by the commissioner due under the reinsurance agreement, upon failure of the reinsurer for any reason to make payments under the policy of reinsurance. The commissioner shall give 30 days' notice prior to drawing upon these funds of an intent to do so. Notwithstanding the commissioner's right to draw on these funds, the reinsurer shall otherwise retain its right to determine the validity of those claims and obligations and to contest their payment under the reinsurance agreement. Prior to a reinsurer's deposit being drawn upon, in whole or in part, by the department, the department shall provide a reinsurer with an explanation of procedures that a reinsurer may use to explain to the department why the use of the reinsurer's deposit may not be appropriate under the reinsurance agreement.

(3) No reinsurer entering into a contract identified in paragraph (2), beginning on or after January 1, 2005, may cede claims or obligations assumed from a ceding insurer unless the deposit securing the ceded claims or obligations is governed by paragraph (2) or, upon approval of the commissioner, would secure the ceded claims or obligations in all

material respects and in the same manner as a deposit identified in paragraph (2) above.

(4) All sums received from the reinsurer by the commissioner for those claims paid by the California Insurance Guarantee Association shall be held separate and apart from and not included in the general assets of the insolvent insurer, and shall be transferred to the California Insurance Guarantee Association upon receipt by the commissioner. In the event of a final judgment or settlement adverse to the drawing of funds by the commissioner pursuant to paragraph (2) or (3), the California Insurance Guarantee Association shall repay funds it obtained to pay covered claims and shall, if necessary, either levy a surcharge as needed or seek legislative approval to levy the surcharge if the California Insurance Guarantee Association is already levying the maximum surcharge permissible under law.

(g) If a reinsurer has not maintained deposits as required by subdivision (a) in amounts equal to the amounts of deposit credits claimed by its ceding insurers, the commissioner, after notifying the reinsurer and its ceding insurers of the deposit shortfall and allowing 15 days from the date of the notice for the deposit shortfall to be corrected, may disallow all or a portion of the reserve credits claimed by the ceding insurers. A ceding insurer disallowed a reserve credit pursuant to this provision shall immediately make the deposit required by this section.

(h) For interest-bearing securities that are debt securities and include principal payment features prior to maturity that are utilized pursuant to subdivision (a), all principal payments received must be retained as part of the deposit.

(i) Withdrawal of any amount of the deposit required under subdivision (a) that results in a reduction of the required amount of the deposit may only occur with the prior written consent of the commissioner.

CHAPTER 118

An act to amend Section 830.6 of the Penal Code, relating to peace officers.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 830.6 of the Penal Code is amended to read:

830.6. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, a reserve deputy marshal, a reserve police officer of a regional park district or of a transit district, a reserve park ranger, a reserve harbor or port police officer of a county, city, or district as specified in Section 663.5 of the Harbors and Navigation Code, a reserve deputy of the Department of Fish and Game, a reserve special agent of the Department of Justice, a reserve officer of a community service district which is authorized under subdivision (h) of Section 61600 of the Government Code to maintain a police department or other police protection, a reserve officer of a school district police department under Section 35021.5 of the Education Code, a reserve officer of a community college police department under Section 72330, a reserve officer of a police protection district formed under Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code, or a reserve housing authority patrol officer employed by a housing authority defined in subdivision (d) of Section 830.31, and is assigned specific police functions by that authority, the person is a peace officer, if the person qualifies as set forth in Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph extends only for the duration of the person's specific assignment. A reserve park ranger or a transit, harbor, or port district reserve officer may carry firearms only if authorized by, and under those terms and conditions as are specified by, his or her employing agency.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, a reserve deputy marshal, a reserve park ranger, a reserve police officer of a regional park district, transit district, community college district, or school district, a reserve harbor or port police officer of a county, city, or district as specified in Section 663.5 of the Harbors and Navigation Code, a reserve officer of a community service district that is authorized under subdivision (h) of Section 61600 of the Government Code to maintain a police department or other police protection, or a reserve officer of a police protection district formed under Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the person is a peace officer, if the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph includes the full powers and duties of a peace officer as

provided by Section 830.1. A transit, harbor, or port district reserve police officer, or a city or county reserve peace officer who is not provided with the powers and duties authorized by Section 830.1, has the powers and duties authorized in Section 830.33, or in the case of a reserve park ranger, the powers and duties that are authorized in Section 830.31, or in the case of a reserve housing authority patrol officer, the powers and duties that are authorized in subdivision (d) of Section 830.31, and a school district reserve police officer or a community college district reserve police officer has the powers and duties authorized in Section 830.32.

(b) Whenever any person designated by a Native American tribe recognized by the United States Secretary of the Interior is deputized or appointed by the county sheriff as a reserve or auxiliary sheriff or a reserve deputy sheriff, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by the county sheriff, the person is a peace officer, if the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a peace officer pursuant to this subdivision includes the full powers and duties of a peace officer as provided by Section 830.1.

(c) Whenever any person is summoned to the aid of any uniformed peace officer, the summoned person is vested with the powers of a peace officer that are expressly delegated to him or her by the summoning officer or that are otherwise reasonably necessary to properly assist the officer.

CHAPTER 119

An act to amend Section 101.7 of the Streets and Highways Code, relating to highways.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 101.7 of the Streets and Highways Code is amended to read:

101.7. (a) The department shall adopt rules and regulations which allow the placement near exits on freeways located in rural areas, of information signs identifying specific roadside businesses offering fuel, food, lodging, or camping services and which prescribe the standards for those signs.

(b) The department shall provide equal access to all business applicants.

(c) The department shall not approve the placement of any sign within any urban area designated by the United States Bureau of the Census as having a population of 5,000 or more.

The department may not remove an information sign that was placed before January 1, 2003, due solely to population growth in an urban area that results in a population of 5,000 or more but less than 10,000.

(d) The information signs may be placed near the freeway exits in addition to, or in lieu of, other highway signs of the department, but not in lieu of on-premises or off-premises highway oriented business signs and directional signs.

(e) The department shall establish and charge a fee to place and maintain information signs in an amount not less than 25 percent above its estimated cost in placing and maintaining the information signs. The department shall annually review the amount of that fee and revise it as necessary. Funds derived from the imposition of the fee, after deduction of the cost to the department for the placement and maintenance of the information signs, shall be available, upon appropriation by the Legislature, for safety roadside rest purposes.

(f) The department shall incorporate the use of an "RV-friendly" symbol on an information sign placed pursuant to subdivision (a) for a specific roadside business that meets criteria of the department regarding sufficiency for recreational vehicles with respect to the parking spaces and surfaces, vertical clearance, turning radius, and entrances and exits of the facility. A specific roadside business otherwise qualified for a sign pursuant to subdivision (a) may qualify for and request an "RV-friendly" symbol for that sign. The department shall adopt rules and regulations for an "RV-friendly" symbol consistent with this section as well as the Federal Highway Administration's Interim Approval for Addition of RV-friendly Symbol to Specific Service Signs. The rules and regulations adopted by the department shall include a provision for the roadside business to acknowledge that overnight occupancy is not permitted unless the roadside business is licensed as a special occupancy park as defined in Section 18862.43 of the Health and Safety Code. The department shall establish and charge an additional fee pursuant to subdivision (e) to place and maintain the symbol.

CHAPTER 120

An act to add Section 739.5 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 20, 2007. Filed with
Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 739.5 is added to the Welfare and Institutions Code, to read:

739.5. (a) If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the minor and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the minor's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. On or before July 1, 2008, the Judicial Council shall adopt rules of court and develop appropriate forms for implementation of this section.

(b) (1) The agency that completes the request for authorization for the administration of psychotropic medication is encouraged to complete the request within three business days of receipt from the physician of the information necessary to fully complete the request.

(2) Nothing in this subdivision is intended to change current local practice or local court rules with respect to the preparation and submission of requests for authorization for the administration of psychotropic medication.

(c) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the minor, or shall, upon a request by the parent, the legal guardian, or the minor's attorney, or upon its own motion, set the matter for hearing.

(d) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(e) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

CHAPTER 121

An act to amend Section 3068 of the Civil Code, relating to vehicle liens.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3068 of the Civil Code is amended to read:

3068. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under the Vehicle Code, subject to the limitations set forth in this chapter. The lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner or 15 days after the work or services are completed, whichever occurs first. Upon completion of the work or services, the lienholder shall not dismantle, disengage, remove, or strip from the vehicle the parts used to complete the work or services.

(b) (1) Any lien under this section that arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale shall be conducted unless either of the following occurs:

(A) The lienholder applies for an authorization to conduct a lien sale within 30 days after the lien has arisen.

(B) An action in court is filed within 30 days after the lien has arisen.

(2) A person whose lien for work or services on a vehicle has been extinguished shall turn over possession of the vehicle, at the place where the work or services were performed, to the legal owner or the lessor upon demand of the legal owner or lessor, and upon tender by the legal owner or lessor, by cashier's check or in cash, of only the amount for storage, safekeeping, or parking space rental for the vehicle to which the person is entitled by subdivision (c).

(3) Any lien under this section that arises because work or services have been performed on a vehicle with the consent of the registered

owner shall be extinguished, and no lien sale shall be conducted, if the lienholder, after written demand made by either personal service or certified mail with return receipt requested by the legal owner or the lessor to inspect the vehicle, fails to permit that inspection by the legal owner or lessor, or his or her agent, within a period of time not sooner than 24 hours nor later than 72 hours after the receipt of that written demand, during the normal business hours of the lienholder.

(4) Any lien under this section that arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished, and no lien sale shall be conducted, if the lienholder, after written demand made by either personal service or certified mail with return receipt requested by the legal owner or the lessor to receive a written copy of the work order or invoice reflecting the services or repairs performed on the vehicle and the authorization from the registered owner requesting the lienholder to perform the services or repairs, fails to provide that copy to the legal owner or lessor, or his or her agent, within 10 days after the receipt of that written demand.

(c) The lienholder shall not charge the legal owner or lessor any amount for release of the vehicle in excess of the amounts authorized by this subdivision.

(1) That portion of the lien in excess of one thousand five hundred dollars ($1,500) for any work or services, or that amount, subject to the limitations contained in Section 10652.5 of the Vehicle Code, in excess of one thousand twenty-five dollars ($1,025) for any storage, safekeeping, or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, in excess of one thousand two hundred fifty dollars ($1,250) for any storage or safekeeping, rendered or performed at the request of any person other than the legal owner or lessor, is invalid, unless prior to commencing any work, services, storage, safekeeping, or rental of parking space, the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the written consent of that legal owner is obtained before any work, services, storage, safekeeping, or rental of parking space are performed.

(2) Subject to the limitations contained in Section 10652.5 of the Vehicle Code, if any portion of a lien includes charges for the care, storage, or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien that accrued after the expiration of that period is invalid unless Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

(3) The charge for the care, storage, or safekeeping of a vehicle which may be charged to the legal owner or lessor shall not exceed that for one day of storage if, 24 hours or less after the vehicle is placed in storage, a request is made for the release of the vehicle. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage.

(d) In any action brought by or on behalf of the legal owner or lessor to recover a vehicle alleged to be wrongfully withheld by the person claiming a lien pursuant to this section, the prevailing party shall be entitled to reasonable attorney's fees and costs, not to exceed one thousand seven hundred fifty dollars ($1,750).

CHAPTER 122

An act to amend Sections 1749.5, 1765, 1765.3, 14042, and 15031 of the Insurance Code, relating to insurance.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1749.5 of the Insurance Code is amended to read:

1749.5. (a) A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing that course, seminar, or program, except that such person shall qualify for those classroom hours only once each license term for each course, seminar, or program.

(b) Excess classroom hours accumulated during any one-year period may be carried forward to the next year.

(c) For good cause shown, the commissioner may grant an extension of time during which the requirements imposed by this article may be completed, but that extension of time shall not exceed the period of one year.

(d) Every person subject to this article shall furnish, in a form satisfactory to the commissioner, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by that person.

(e) Any education provider whose self-study courses have been approved by the department shall not count its own self-study courses towards its continuing education requirement for a license issued under this chapter.

SEC. 2. Section 1765 of the Insurance Code is amended to read:

1765. (a) A license under this chapter shall be applied for and renewed by the filing with the commissioner of a written application therefor, in accordance with the provisions of Section 1652.

(b) Subject to subdivision (f) of this section, the commissioner shall issue a license authorizing any applicant who is trustworthy and competent to transact an insurance brokerage business in such manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of the license until the expiration date specified in Section 1630. In order to transact surplus line brokerage business, an individual must be licensed as a surplus line broker.

(c) An applicant for a surplus line broker's license shall, as part of the application and a condition of the issuance of the license, file a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000), conditioned that the licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code. The bond shall be subject to the provisions of Sections 1662 and 1663. A surplus line broker bond is not required for an individual licensed as a surplus line broker who only transacts on behalf of a licensed surplus line broker organization.

(d) The filing fee for a license to act as a surplus line broker shall be seven hundred dollars ($700) every two years, or for any initial fractional license year. Every applicant for a business entity license, as provided in subdivision (a) of Section 1765.2, shall provide the names of all persons who may exercise the power and perform the duties under the license. Whenever an organization licensed as a surplus line broker desires to change, remove, or add to the natural person or persons who are to transact insurance under authority of its license, it shall immediately file an application or notice with the commissioner for an endorsement changing its license accordingly, on a form prescribed by the commissioner. The fee for adding or removing from any surplus line broker's license issued to an organization the name of any natural person, named thereon, shall be twenty-four dollars ($24). The commissioner shall require that the qualifying examination provided by subdivision (a) of Section 1676 be taken by any natural person named by the organization to exercise its agency or brokerage powers who would be required to take and pass the qualifying examination. That natural person or persons and the organization are in all other respects subject to the provisions of this chapter and the insurance laws.

(e) Such license shall be renewed in accordance with and subject to, the provisions of Sections 1717, 1718, 1719, and 1720.

(f) The commissioner may deny, suspend, or revoke any license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5, whenever the commissioner finds that the applicant or licensee has committed a violation of any provision of this code.

SEC. 3. Section 1765.3 of the Insurance Code is amended to read:

1765.3. Any natural person applying for a license to act as a surplus line broker shall prove his or her competency by showing he or she holds an existing license to act as a fire and casualty broker-agent, which requires passing the qualifying examination for such an insurance broker's license.

SEC. 4. Section 14042 of the Insurance Code is amended to read:

14042. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner to do so.

The commissioner shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Section 1724.5 of this code and Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the commissioner in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of twelve dollars ($12) for such authorization.

SEC. 5. Section 15031 of the Insurance Code is amended to read:

15031. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner to do so.

The commissioner shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency

of that used by another licensee that the public may be confused or mislead thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Section 1724.5 of this code and Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

A licensee desiring to conduct his or her business under more than one fictitious name shall obtain the authorization of the commissioner in a manner prescribed in this section for the use of such name.

The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of ten dollars ($10) for that authorization.

CHAPTER 123

An act to amend Sections 5810, 5830, 5840, 5850, 5860, 5870, 5880, 5890, 5900, 5910, 5930, and 5960 of the Public Utilities Code, and to amend Section 107.7 of the Revenue and Taxation Code, relating to cable and video service.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5810 of the Public Utilities Code is amended to read:

5810. (a) The Legislature finds and declares all of the following:

(1) Increasing competition for video and broadband services is a matter of statewide concern for all of the following reasons:

(A) Video and cable services provide numerous benefits to all Californians including access to a variety of news, public information, education, and entertainment programming.

(B) Increased competition in the cable and video service sector provides consumers with more choice, lowers prices, speeds the deployment of new communication and broadband technologies, creates jobs, and benefits the California economy.

(C) To promote competition, the state should establish a state-issued franchise authorization process that allows market participants to use

their networks and systems to provide video, voice, and broadband services to all residents of the state.

(D) Competition for video service should increase opportunities for programming that appeals to California's diverse population and many cultural communities.

(2) Legislation to develop this new process should adhere to the following principles:

(A) Create a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.

(B) Promote the widespread access to the most technologically advanced cable and video services to all California communities in a nondiscriminatory manner regardless of socioeconomic status.

(C) Protect local government revenues and control of public rights-of-way.

(D) Require market participants to comply with all applicable consumer protection laws.

(E) Complement efforts to increase investment in broadband infrastructure and close the digital divide.

(F) Continue access to and maintenance of the public, education, and government (PEG) channels.

(G) Maintain all existing authority of the California Public Utilities Commission as established in state and federal statutes.

(3) The public interest is best served when sufficient funds are appropriated to the commission to provide adequate staff and resources to appropriately and timely process applications of video service providers and to ensure full compliance with the requirements of this division. It is the intent of the Legislature that, although video service providers are not public utilities or common carriers, the commission shall collect any fees authorized by this division in the same manner and under the same terms as it collects fees from common carriers, electrical corporations, gas corporations, telephone corporations, telegraph corporations, water corporations, and every other public utility providing service directly to customers or subscribers subject to its jurisdiction such that it does not discriminate against video service providers or their subscribers.

(4) Providing an incumbent cable operator the option to secure a state-issued franchise through the preemption of an existing cable franchise between a cable operator and any political subdivision of the state, including, but not limited to, a charter city, county, or city and county, is an essential element of the new regulatory framework established by this act as a matter of statewide concern to best ensure

equal protection and parity among providers and technologies, as well as to achieve the goals stated by the Legislature in enacting this act.

(b) It is the intent of the Legislature that a video service provider shall pay as rent a franchise fee to the local entity in whose jurisdiction service is being provided for the continued use of streets, public facilities, and other rights-of-way of the local entity in order to provide service. The Legislature recognizes that local entities should be compensated for the use of the public rights-of-way and that the franchise fee is intended to compensate them in the form of rent or a toll, similar to that which the court found to be appropriate in Santa Barbara County Taxpayers Association v. Board of Supervisors for the County of Santa Barbara (1989) 209 Cal. App. 3d 940.

(c) It is the intent of the Legislature that collective bargaining agreements be respected.

(d) It is the intent of the Legislature that the definition of gross revenues in this division shall result in local entities maintaining their existing level of revenue from franchise fees.

SEC. 2. Section 5830 of the Public Utilities Code is amended to read:

5830. For purposes of this division, the following words have the following meanings:

(a) "Broadband" means any service defined as broadband in the most recent Federal Communications Commission inquiry pursuant to Section 706 of the Telecommunications Act of 1996 (P.L. 104-104).

(b) "Cable operator" means any person or group of persons that either provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in a cable system; or that otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system, as set forth in Section 522(5) of Title 47 of the United States Code.

(c) "Cable service" is defined as the one-way transmission to subscribers of either video programming, or other programming service, and subscriber interaction, if any, that is required for the selection or use of video programming or other programming service, as set forth in Section 522(6) of Title 47 of the United States Code.

(d) "Cable system" is defined as set forth in Section 522(7) of Title 47 of the United States Code.

(e) "Commission" means the Public Utilities Commission.

(f) "Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of any network in the right-of-way capable of providing video service to subscribers.

(g) "Franchise fee" means the fee adopted pursuant to Section 5840.

(h) "Holder" or "holder of a state franchise" means a person or group of persons that has been issued a state franchise from the commission pursuant to this division.

(i) "Incumbent cable operator" means a cable operator or OVS serving subscribers under a franchise in a particular city, county, or city and county franchise area on January 1, 2007.

(j) "Local entity" means any city, county, city and county, or joint powers authority within the state within whose jurisdiction a holder of a state franchise under this division may provide cable service or video service.

(k) "Local franchising entity" means the city, county, city and county, or joint powers authority entitled to require franchises and impose fees on cable operators, as set forth in Section 53066 of the Government Code.

(*l*) "Network" means a component of a facility that is wholly or partly physically located within a public right-of-way and that is used to provide video service, cable service, voice, or data services.

(m) "Open-video system" or "OVS" means those services set forth in Section 573 of Title 47 of the United States Code.

(n) "OVS operator" means any person or group of persons that either provides cable service over an open-video system directly, or through one or more affiliates, owns a significant interest in an open-video system, or that otherwise controls or is responsible for, through any arrangement, the management of an open-video system.

(o) "Public rights-of-way" means the area along and upon any public road or highway, or along or across any of the waters or lands within the state.

(p) "State franchise" means a franchise that is issued pursuant to this division.

(q) "Subscriber" means a person who lawfully receives video service from the holder of a state franchise for a fee.

(r) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in Section 522(20) of Title 47 of the United States Code.

(s) "Video service" means video programming services, cable service, or OVS service provided through facilities located at least in part in public rights-of-way without regard to delivery technology, including Internet protocol or other technology. This definition does not include (1) any video programming provided by a commercial mobile service provider defined in Section 332(d) of Title 47 of the United States Code, or (2) video programming provided as part of, and via, a service that

enables users to access content, information, electronic mail, or other services offered over the public Internet.

(t) "Video service provider" means an entity providing video service.

SEC. 3. Section 5840 of the Public Utilities Code is amended to read:

5840. (a) The commission is the sole franchising authority for a state franchise to provide video service under this division. Neither the commission nor any local franchising entity or other local entity of the state may require the holder of a state franchise to obtain a separate franchise or otherwise impose any requirement on any holder of a state franchise except as expressly provided in this division. Sections 53066, 53066.01, 53066.2, and 53066.3 of the Government Code shall not apply to holders of a state franchise.

(b) The application process described in this section and the authority granted to the commission under this section shall not exceed the provisions set forth in this section.

(c) Any person or corporation who seeks to provide video service in this state for which a franchise has not already been issued, after January 1, 2008, shall file an application for a state franchise with the commission. The commission may impose a fee on the applicant that shall not exceed the actual and reasonable costs of processing the application and shall not be levied for general revenue purposes.

(d) No person or corporation shall be eligible for a state-issued franchise, including a franchise obtained from renewal or transfer of an existing franchise, if that person or corporation is in violation of any final nonappealable order relating to either the Cable Television and Video Provider Customer Service and Information Act (Article 3.5 (commencing with Section 53054) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) or the Video Customer Service Act (Article 4.5 (commencing with Section 53088) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).

(e) The application for a state franchise shall be made on a form prescribed by the commission and shall include all of the following:

(1) A sworn affidavit, signed under penalty of perjury by an officer or another person authorized to bind the applicant, that affirms all of the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering cable service or video service in this state.

(B) That the applicant or its affiliates agrees to comply with all federal and state statutes, rules, and regulations, including, but not limited to, the following:

(i) A statement that the applicant will not discriminate in the provision of video or cable services as provided in Section 5890.

(ii) A statement that the applicant will abide by all applicable consumer protection laws and rules as provided in Section 5900.

(iii) A statement that the applicant will remit the fee required by subdivision (a) of Section 5860 to the local entity.

(iv) A statement that the applicant will provide PEG channels and the required funding as required by Section 5870.

(C) That the applicant agrees to comply with all lawful city, county, or city and county regulations regarding the time, place, and manner of using the public rights-of-way, including, but not limited to, payment of applicable encroachment, permit, and inspection fees.

(D) That the applicant will concurrently deliver a copy of the application to any local entity where the applicant will provide service.

(2) The applicant's legal name and any name under which the applicant does or will do business in this state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of the video service area footprint that is proposed to be served, as identified by a collection of United States Census Bureau Block numbers (13 digit) or a geographic information system digital boundary meeting or exceeding national map accuracy standards. This description shall include the socioeconomic status information of all residents within the service area footprint.

(7) If the applicant is a telephone corporation or an affiliate of a telephone corporation, as defined in Section 234, a description of the territory in which the company provides telephone service. The description shall include socioeconomic status information of all residents within the telephone corporation's service territory.

(8) The expected date for the deployment of video service in each of the areas identified in paragraph (6).

(9) Adequate assurance that the applicant possesses the financial, legal, and technical qualifications necessary to construct and operate the proposed system and promptly repair any damage to the public right-of-way caused by the applicant. To accomplish these requirements, the commission may require a bond.

(f) The commission may require that a corporation with wholly owned subsidiaries or affiliates is eligible only for a single state-issued franchise and prohibit the holding of multiple franchises through separate

subsidiaries or affiliates. The commission may establish procedures for a holder of a state-issued franchise to amend its franchise to reflect changes in its service area.

(g) The commission shall commence accepting applications for a state franchise no later than April 1, 2007.

(h) (1) The commission shall notify an applicant for a state franchise and any affected local entities whether the applicant's application is complete or incomplete before the 30th calendar day after the applicant submits the application.

(2) If the commission finds the application is complete, it shall issue a state franchise before the 14th calendar day after that finding.

(3) If the commission finds that the application is incomplete, it shall specify with particularity the items in the application that are incomplete and permit the applicant to amend the application to cure any deficiency. The commission shall have 30 calendar days from the date the application is amended to determine its completeness.

(4) The failure of the commission to notify the applicant of the completeness or incompleteness of the application before the 44th calendar day after receipt of an application shall be deemed to constitute issuance of the certificate applied for without further action on behalf of the applicant.

(i) The state franchise issued by the commission shall contain all of the following:

(1) A grant of authority to provide video service in the service area footprint as requested in the application.

(2) A grant of authority to use the public rights-of-way, in exchange for the franchise fee adopted under subdivision (q), in the delivery of video service, subject to the laws of this state.

(3) A statement that the grant of authority is subject to lawful operation of the cable service or video service by the applicant or its successor in interest.

(j) The state franchise issued by the commission may be terminated by the video service provider by submitting at least 90 days prior written notice to subscribers, local entities, and the commission.

(k) It is unlawful to provide video service without a state or locally issued franchise.

(*l*) Subject to the notice requirements of this division, a state franchise may be transferred to any successor in interest of the holder to which the certificate is originally granted, provided that the transferee first submits all of the information required of the applicant by this section to the commission and is in compliance with Section 5970.

(m) In connection with, or as a condition of, receiving a state franchise, the commission shall require a holder to notify the commission and any

applicable local entity within 14 business days of any of the following changes involving the holder of the state franchise:

(1) Any transaction involving a change in the ownership, operation, control, or corporate organization of the holder, including a merger, an acquisition, or a reorganization.

(2) A change in the holder's legal name or the adoption of, or change to, an assumed business name. The holder shall submit to the commission a certified copy of either of the following:

(A) The proposed amendment to the state franchise.

(B) The certificate of assumed business name.

(3) A change in the holder's principal business address or in the name of the person authorized to receive notice on behalf of the holder.

(4) Any transfer of the state franchise to a successor in interest of the holder. The holder shall identify the successor in interest to which the transfer is made.

(5) The termination of any state franchise issued under this division. The holder shall identify both of the following:

(A) The number of subscribers in the service area covered by the state franchise being terminated.

(B) The method by which the holder's subscribers were notified of the termination.

(6) A change in one or more of the service areas of the holder of a state franchise pursuant to this division that would increase or decrease the territory within the service area. The holder shall describe the new boundaries of the affected service areas after the proposed change is made.

(n) Prior to offering video service in a local entity's jurisdiction, the holder of a state franchise shall notify the local entity that the video service provider will provide video service in the local entity's jurisdiction. The notice shall be given at least 10 days, but no more than 60 days, before the video service provider begins to offer service.

(o) Any video service provider that currently holds a franchise with a local franchising entity is entitled to seek a state franchise in the area designated in that franchise upon meeting any of the following conditions:

(1) The expiration, prior to any renewal or extension, of its local franchise.

(2) A mutually agreed upon date set by both the local franchising entity and video service provider to terminate the franchise provided in writing by both parties to the commission.

(3) When a video service provider that holds a state franchise provides the notice required pursuant to subdivision (n) to a local jurisdiction that it intends to initiate providing video service in all or part of that jurisdiction, a video service provider operating under a franchise issued

by a local franchising entity may elect to obtain a state franchise to replace its locally issued franchise. The franchise issued by the local franchising entity shall terminate and be replaced by a state franchise when the commission issues a state franchise for the video service provider that includes the entire service area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

(p) Notwithstanding any rights to the contrary, an incumbent cable operator opting into a state franchise under this section shall continue to serve all areas as required by its local franchise agreement existing on January 1, 2007, until that local franchise otherwise would have expired. However, an incumbent cable operator that is also a telephone corporation with less than 1,000,000 telephone customers in California and is providing video service in competition with another incumbent cable operator shall not be required to provide service beyond the area in which it is providing video service as of January 1, 2007.

(q) (1) There is hereby adopted a state franchise fee payable as rent or a toll for the use of the public rights-of-way by holders of the state franchise issued pursuant to this division. The amount of the state franchise fee shall be 5 percent of gross revenues, as defined in subdivision (d) of Section 5860, or the percentage applied by the local entity to the gross revenue of the incumbent cable operator, whichever is less. If there is no incumbent cable operator or upon the expiration of the incumbent cable operator's franchise, the amount of the state franchise fee shall be 5 percent of gross revenues, as defined in subdivision (d) of Section 5860, unless the local entity adopts an ordinance setting the amount of the franchise fee at less than 5 percent.

(2) (A) The state franchise fee shall apply equally to all video service providers in the local entity's jurisdiction.

(B) Notwithstanding subparagraph (A), if the video service provider is leasing access to a network owned by a local entity, the local entity may set a franchise fee for access to the network different from the franchise fee charged to a video service provider for access to the rights-of-way to install its own network.

SEC. 4. Section 5850 of the Public Utilities Code is amended to read:

5850. (a) A state-issued franchise shall only be valid for 10 years after the date of issuance, and the holder shall apply for a renewal of the state franchise for an additional 10-year period if it wishes to continue to provide video services in the area covered by the franchise after the expiration of the franchise.

(b) Except as provided in this section, the criteria and process described in Section 5840 shall apply to a renewal registration, and the commission shall not impose any additional or different criteria.

(c) Renewal of a state franchise shall be consistent with federal law and regulations.

(d) The commission shall not renew the franchise if the video service provider is in violation of any final nonappealable court order issued pursuant to this division.

SEC. 5. Section 5860 of the Public Utilities Code is amended to read:

5860. (a) The holder of a state franchise that offers video service within the jurisdiction of the local entity shall calculate and remit to the local entity a state franchise fee, adopted pursuant to subdivision (q) of Section 5840, as provided in this section. The obligation to remit the franchise fee to a local entity begins immediately upon provision of video service within that local entity's jurisdiction. However, the remittance shall not be due until the time of the first quarterly payment required under subdivision (h) that is at least 180 days after the provision of service began. The fee remitted to a city or city and county shall be based on gross revenues, as defined in subdivision (d), derived from the provision of video service within that jurisdiction. The fee remitted to a county shall be based on gross revenues earned within the unincorporated area of the county. No fee under this section shall become due unless the local entity provides documentation to the holder of the state franchise supporting the percentage paid by the incumbent cable operator serving the area within the local entity's jurisdiction. The fee shall be calculated as a percentage of the holder's gross revenues, as defined in subdivision (d). The fee remitted to the local entity pursuant to this section may be used by the local entity for any lawful purpose.

(b) The state franchise fee shall be a percentage of the holder's gross revenues, as defined in subdivision (d).

(c) No local entity or any other political subdivision of this state may demand any additional fees or charges or other remuneration of any kind from the holder of a state franchise based solely on its status as a provider of video or cable services other than as set forth in this division and may not demand the use of any other calculation method or definition of gross revenues. However, nothing in this section shall be construed to limit a local entity's ability to impose utility user taxes and other generally applicable taxes, fees, and charges under other applicable provisions of state law that are applied in a nondiscriminatory and competitively neutral manner.

(d) For purposes of this section, the term "gross revenues" means all revenue actually received by the holder of a state franchise, as determined in accordance with generally accepted accounting principles, that is derived from the operation of the holder's network to provide cable or video service within the jurisdiction of the local entity, including all of the following:

(1) All charges billed to subscribers for any and all cable service or video service provided by the holder of a state franchise, including all revenue related to programming provided to the subscriber, equipment rentals, late fees, and insufficient fund fees.

(2) Franchise fees imposed on the holder of a state franchise by this section that are passed through to, and paid by, the subscribers.

(3) Compensation received by the holder of a state franchise that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are paid to the holder of a state franchise as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to paragraph (4) of subdivision (e).

(4) A pro rata portion of all revenue derived by the holder of a state franchise or its affiliates pursuant to compensation arrangements for advertising derived from the operation of the holder's network to provide video service within the jurisdiction of the local entity, subject to paragraph (1) of subdivision (e). The allocation shall be based on the number of subscribers in the local entity divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(e) For purposes of this section, the term "gross revenue" set forth in subdivision (d) does not include any of the following:

(1) Amounts not actually received, even if billed, such as bad debt; refunds, rebates, or discounts to subscribers or other third parties; or revenue imputed from the provision of cable services or video services for free or at reduced rates to any person as required or allowed by law, including, but not limited to, the provision of these services to public institutions, public schools, governmental agencies, or employees except that forgone revenue chosen not to be received in exchange for trades, barters, services, or other items of value shall be included in gross revenue.

(2) Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the holder of a state franchise to provide cable services or video services. However, revenue received by an affiliate of the holder from the affiliate's provision of cable or video service shall be included in gross revenue as follows:

(A) To the extent that treating the revenue as revenue of the affiliate, instead of revenue of the holder, would have the effect of evading the payment of fees that would otherwise be paid to the local entity.

(B) The revenue is not otherwise subject to fees to be paid to the local entity.

(3) Revenue derived from services classified as noncable services or nonvideo services under federal law, including, but not limited to, revenue derived from telecommunications services and information services, other than cable services or video services, and any other revenues attributed by the holder of a state franchise to noncable services or nonvideo services in accordance with Federal Communications Commission rules, regulations, standards, or orders.

(4) Revenue paid by subscribers to "home shopping" or similar networks directly from the sale of merchandise through any home shopping channel offered as part of the cable services or video services. However, commissions or other compensation paid to the holder of a state franchise by "home shopping" or similar networks for the promotion or exhibition of products or services shall be included in gross revenue.

(5) Revenue from the sale of cable services or video services for resale in which the reseller is required to collect a fee similar to the franchise fee from the reseller's subscribers.

(6) Amounts billed to, and collected from, subscribers to recover any tax, fee, or surcharge imposed by any governmental entity on the holder of a state franchise, including, but not limited to, sales and use taxes, gross receipts taxes, excise taxes, utility users taxes, public service taxes, communication taxes, and any other fee not imposed by this section.

(7) Revenue from the sale of capital assets or surplus equipment not used by the purchaser to receive cable services or video services from the seller of those assets or surplus equipment.

(8) Revenue from directory or Internet advertising revenue, including, but not limited to, yellow pages, white pages, banner advertisement, and electronic publishing.

(9) Revenue received as reimbursement by programmers of specific, identifiable marketing costs incurred by the holder of a state franchise for the introduction of new programming.

(10) Security deposits received from subscribers, excluding security deposits applied to the outstanding balance of a subscriber's account and thereby taken into revenue.

(f) For the purposes of this section, in the case of a video service that may be bundled or integrated functionally with other services, capabilities, or applications, the state franchise fee shall be applied only to the gross revenue, as defined in subdivision (d), attributable to video service. Where the holder of a state franchise or any affiliate bundles, integrates, ties, or combines video services with nonvideo services creating a bundled package, so that subscribers pay a single fee for more than one class of service or receive a discount on video services, gross revenues shall be determined based on an equal allocation of the package discount, that is, the total price of the individual classes of service at

advertised rates compared to the package price, among all classes of service comprising the package. The holder's offering a bundled package shall not be deemed a promotional activity. If the holder of a state franchise does not offer any component of the bundled package separately, the holder of a state franchise shall declare a stated retail value for each component based on reasonable comparable prices for the product or service for the purpose of determining franchise fees based on the package discount.

(g) For the purposes of determining gross revenue under this division, a video service provider shall use the same method of determining revenues under generally accepted accounting principals as that which the video service provider uses in determining revenues for the purpose of reporting to national and state regulatory agencies.

(h) The state franchise fee shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the state franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus 1 percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment.

(i) Not more than once annually, a local entity may examine the business records of a holder of a state franchise to the extent reasonably necessary to ensure compensation in accordance with this section. The holder shall keep all business records reflecting any gross revenues, even if there is a change in ownership, for at least four years after those revenues are recognized by the holder on its books and records. If the examination discloses that the holder has underpaid franchise fees by more than 5 percent during the examination period, the holder shall pay all of the reasonable and actual costs of the examination. If the examination discloses that the holder has not underpaid franchise fees, the local entity shall pay all of the reasonable and actual costs of the examination. In every other instance, each party shall bear its own costs of the examination. Any claims by a local entity that compensation is not in accordance with subdivision (a), and any claims for refunds or other corrections to the remittance of the holder of a state franchise, shall be made within three years and 45 days of the end of the quarter for which compensation is remitted, or three years from the date of the remittance, whichever is later. Either a local entity or the holder may, in the event of a dispute concerning compensation under this section, bring an action in a court of competent jurisdiction.

(j) The holder of a state franchise may identify and collect the amount of the state franchise fee as a separate line item on the regular bill of each subscriber.

SEC. 6. Section 5870 of the Public Utilities Code is amended to read:

5870. (a) The holder of a state franchise shall designate a sufficient amount of capacity on its network to allow the provision of the same number of public, educational, and governmental access (PEG) channels, as are activated and provided by the incumbent cable operator that has simultaneously activated and provided the greatest number of PEG channels within the local entity under the terms of any franchise in effect in the local entity as of January 1, 2007. For the purposes of this section, a PEG channel is deemed activated if it is being utilized for PEG programming within the local entity's jurisdiction for at least eight hours per day. The holder shall have three months from the date the local entity requests the PEG channels to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay of the incumbent cable operator to make adequate interconnection available, as required by this section.

(b) The PEG channels shall be for the exclusive use of the local entity or its designee to provide public, educational, and governmental channels. The PEG channels shall be used only for noncommercial purposes. However, advertising, underwriting, or sponsorship recognition may be carried on the channels for the purpose of funding PEG-related activities. The PEG channels shall all be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the local entity unless the change is required by federal law. Each channel shall be capable of carrying a National Television System Committee (NTSC) television signal.

(c) (1) If less than three PEG channels are activated and provided within the local entity as of January 1, 2007, a local entity whose jurisdiction lies within the authorized service area of the holder of a state franchise may initially request the holder to designate not more than a total of three PEG channels.

(2) The holder shall have three months from the date of the request to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay

of the incumbent cable operator to make adequate interconnection available, as required by this section.

(d) (1) The holder shall provide an additional PEG channel when the nonduplicated locally produced video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for any purpose other than to continue programming additional government, education, or public access television.

(2) For the purposes of this section, "locally produced video programming" means programming produced or provided by any local resident, the local entity, or any local public or private agency that provides services to residents of the franchise area; or any transmission of a meeting or proceeding of any local, state, or federal governmental entity.

(e) Any PEG channel provided pursuant to this section that is not utilized by the local entity for at least eight hours per day as measured on a quarterly basis may no longer be made available to the local entity, and may be programmed at the holder's discretion. At the time that the local entity can certify to the holder a schedule for at least eight hours of daily programming, the holder of the state franchise shall restore the channel or channels for the use of the local entity.

(f) The content to be provided over the PEG channel capacity provided pursuant to this section shall be the responsibility of the local entity or its designee receiving the benefit of that capacity, and the holder of a state franchise bears only the responsibility for the transmission of that content, subject to technological restraints.

(g) (1) The local entity shall ensure that all transmissions, content, or programming to be transmitted by a holder of a state franchise are provided or submitted in a manner or form that is compatible with the holder's network, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is standard in the industry. The holder shall be responsible for any changes in the form of the transmission necessary to make it compatible with the technology or protocol utilized by the holder to deliver services. If the holder is required to change the form of the transmission, the local entity shall permit the holder to do so in a manner that is most economical to the holder.

(2) The provision of those transmissions, content, or programming to the holder of a state franchise shall constitute authorization for the holder to carry those transmissions, content, or programming. The holder may carry the transmission, content, or programming outside of the local

entity's jurisdiction if the holder agrees to pay the local entity or its designee any incremental licensing costs incurred by the local entity or its designee associated with that transmission. A local entity shall not enter into a licensing agreement that imposes higher proportional costs for transmission to subscribers outside the local entity's jurisdiction.

(3) The PEG signal shall be receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than the equipment necessary to receive the lowest cost tier of service. The PEG access capacity provided shall be of similar quality and functionality to that offered by commercial channels on the lowest cost tier of service unless the signal is provided to the holder at a lower quality or with less functionality.

(h) Where technically feasible, the holder of a state franchise and an incumbent cable operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. Holders of a state franchise and incumbent cable operators shall provide interconnection of the PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a holder of a state franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the local entity may require the incumbent cable operator to allow the holder to interconnect its network with the incumbent's network at a technically feasible point on the holder's network as identified by the holder. If no technically feasible point for interconnection is available, the holder of a state franchise shall make an interconnection available to the channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the holder requesting the interconnection unless otherwise agreed to by the parties.

(i) A holder of a state franchise shall not be required to interconnect for, or otherwise to transmit, PEG content that is branded with the logo, name, or other identifying marks of another cable operator or video service provider. For purposes of this section, PEG content is not branded if it includes only production credits or other similar information displayed at the conclusion of a program. The local entity may require a cable operator or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available through interconnection to another provider of PEG capacity.

(j) In addition to any provision for the PEG channels required under subdivisions (a) to (i), inclusive, the holder shall reserve, designate, and, upon request, activate a channel for carriage of state public affairs programming administered by the state.

(k) All obligations to provide and support PEG channel facilities and institutional networks and to provide cable services to community buildings contained in a locally issued franchise existing on December 31, 2006, shall continue until the local franchise expires, until the term of the franchise would have expired if it had not been terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

(*l*) After January 1, 2007, and until the expiration of the incumbent cable operator's franchise, if the incumbent cable operator has existing unsatisfied obligations under the franchise to remit to the local entity any cash payments for the ongoing costs of public, educational, and government access channel facilities or institutional networks, the local entity shall divide those cash payments among all cable or video providers as provided in this section. The fee shall be the holder's pro rata per subscriber share of the cash payment required to be paid by the incumbent cable operator to the local entity for the costs of PEG channel facilities. All video service providers and the incumbent cable operator shall be subject to the same requirements for recurring payments for the support of PEG channel facilities and institutional networks, whether expressed as a percentage of gross revenue or as an amount per subscriber, per month, or otherwise.

(m) In determining the fee described in subdivision (*l*) on a pro rata per subscriber basis, all cable and video service providers shall report, for the period in question, to the local entity the total number of subscribers served within the local entity's jurisdiction, which shall be treated as confidential by the local entity and shall be used only to derive the per subscriber fee required by this section. The local entity shall then determine the payment due from each provider based on a per subscriber basis for the period by multiplying the unsatisfied cash payments for the ongoing capital costs of PEG channel facilities by a ratio of the reported subscribers of each provider to the total subscribers within the local entity as of the end of the period. The local entity shall notify the respective providers, in writing, of the resulting pro rata amount. After the notice, any fees required by this section shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for the preceding calendar quarter, and may only be used by the local entity as authorized under federal law.

(n) A local entity may, by ordinance, establish a fee to support PEG channel facilities consistent with federal law that would become effective subsequent to the expiration of any fee imposed pursuant to subdivision (*l*). If no such fee exists, the local entity may establish the fee at any time. The fee shall not exceed 1 percent of the holder's gross revenues, as defined in Section 5860. Notwithstanding this limitation, if, on

December 31, 2006, a local entity is imposing a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. The ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise.

(o) The holder of a state franchise may recover the amount of any fee remitted to a local entity under this section by billing a recovery fee as a separate line item on the regular bill of each subscriber.

(p) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section or resolve any dispute regarding the requirements set forth in this section, and no provider may be barred from the provision of service or be required to terminate service as a result of that dispute or enforcement action.

SEC. 7. Section 5880 of the Public Utilities Code is amended to read:

5880. Holders of state franchises shall comply with the Emergency Alert System requirements of the Federal Communications Commission in order that emergency messages may be distributed over the holder's network. Any provision in a locally issued franchise authorizing local entities to provide local emergency notifications shall remain in effect, and shall apply to all holders of a state-issued franchise in the same local area, for the duration of the locally issued franchise, until the term of the franchise would have expired were the franchise not terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

SEC. 8. Section 5890 of the Public Utilities Code is amended to read:

5890. (a) A cable operator or video service provider that has been granted a state franchise under this division may not discriminate against or deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which the group resides.

(b) Holders or their affiliates with more than 1,000,000 telephone customers in California satisfy subdivision (a) if all of the following conditions are met:

(1) Within three years after it begins providing video service under this division, at least 25 percent of households with access to the holder's video service are low-income households.

(2) Within five years after it begins providing video service under this division and continuing thereafter, at least 30 percent of the households with access to the holder's video service are low-income households.

(3) Holders provide service to community centers in underserved areas, as determined by the holder, without charge, at a ratio of one

community center for every 10,000 video subscribers. The holder shall not be required to take its facilities beyond the appropriate demarcation point outside the community center building or perform any inside wiring. The community center may not receive service from more than one state franchise holder at a time under this section. For purposes of this section, "community center" means any facility operated by an organization that has qualified for the California Teleconnect Fund, as established in Section 280 and that will make the holder's service available to the community.

(c) Holders or their affiliates with fewer than 1,000,000 telephone customers in California satisfy this section if they offer video service to all customers within their telephone service area within a reasonable time, as determined by the commission. However, the commission shall not require the holder to offer video service if the cost to provide video service is substantially above the average cost of providing video service in that telephone service area.

(d) When a holder provides video service outside of its telephone service area, is not a telephone corporation, or offers video service in an area where no other video service is being offered, other than direct-to-home satellite service, there is a rebuttable presumption that discrimination in providing service has not occurred within those areas. The commission may review the holder's proposed video service area to ensure that the area is not drawn in a discriminatory manner.

(e) For holders or their affiliates with more than 1,000,000 telephone customers in California, either of the following shall apply:

(1) If the holder is predominantly deploying fiber optic facilities to the customer's premise, the holder shall provide access to its video service to a number of households at least equal to 25 percent of the customer households in the holder's telephone service area within two years after it begins providing video service under this division, and to a number at least equal to 40 percent of those households within five years.

(2) If the holder is not predominantly deploying fiber optic facilities to the customer's premises, the holder shall provide access to its video service to a number of households at least equal to 35 percent of the households in the holder's telephone service area within three years after it begins providing video service under this division, and to a number at least equal to 50 percent of these households within five years.

(3) A holder shall not be required to meet the 40-percent requirement in paragraph (1) or the 50-percent requirement in paragraph (2) until two years after at least 30 percent of the households with access to the holder's video service subscribe to it for six consecutive months.

(4) If 30 percent of the households with access to the holder's video service have not subscribed to the holder's video service for six consecutive months within three years after it begins providing video service, the holder may submit validating documentation to the commission. If the commission finds that the documentation validates the holder's claim, then the commission shall permit a delay in meeting the 40-percent requirement in paragraph (1) or the 50-percent requirement in paragraph (2) until the time that the holder does provide service to 30 percent of the households for six consecutive months.

(f) (1) After two years of providing service under this division, the holder may apply to the state franchising authority for an extension to meet the requirements of subdivision (b), (c), or (e). Notice of this application shall also be provided to the telephone customers of the holder, the Secretary of the Senate, and the Chief Clerk of the Assembly.

(2) Upon application, the franchising authority shall hold public hearings in the telephone service area of the applicant.

(3) In reviewing the failure to satisfy the obligations contained in subdivision (b), (c), or (e), the franchising authority shall consider factors that are beyond the control of the holder, including, but not limited to, the following:

(A) The ability of the holder to obtain access to rights-of-way under reasonable terms and conditions.

(B) The degree to which developments or buildings are not subject to competition because of existing exclusive arrangements.

(C) The degree to which developments or buildings are inaccessible using reasonable technical solutions under commercially reasonable terms and conditions.

(D) Natural disasters.

(4) The franchising authority may grant the extension only if the holder has made substantial and continuous effort to meet the requirements of subdivision (b), (c), or (e). If an extension is granted the franchising authority shall establish a new compliance deadline.

(g) Local governments may bring complaints to the state franchising authority that a holder is not offering video service as required by this section, or the state franchising authority may open an investigation on its own motion. The state franchising authority shall hold public hearings before issuing a decision. The commission may suspend or revoke the franchise if the holder fails to comply with the provisions of this division.

(h) If the state franchising authority finds that the holder is in violation of this section, it may, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder's total monthly gross revenue received from provision of video service in the state each

month from the date of the decision until the date that compliance is achieved.

(i) If a court finds that the holder of the state franchise is in violation of this section, the court may immediately terminate the holder's state franchise, and the court shall, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder's total gross revenue of its entire cable and service footprint in the state in the full calendar month immediately prior to the decision.

(j) As used in this section, the following definitions shall apply:

(1) "Access" means that the holder is capable of providing video service at the household address using any technology, other than direct-to-home satellite service, providing two-way broadband Internet capability and video programming, content, and functionality, regardless of whether any customer has ordered service or whether the owner or landlord or other responsible person has granted access to the household. If more than one technology is utilized, the technologies shall provide similar two-way broadband Internet accessibility and similar video programming.

(2) "Customer's household" means those residential households located within the holder's existing telephone service area that are customers of the service by which that telephone service area is defined.

(3) "Household" means, consistent with the United States Census Bureau, a house, an apartment, a mobilehome, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

(4) "Low-income household" means those residential households located within the holder's existing telephone service area where the average annual household income is less than thirty-five thousand dollars ($35,000) based on the United States Census Bureau estimates adjusted annually to reflect rates of change and distribution through January 1, 2007.

(k) Nothing in this section shall be construed to require a holder to provide video service outside its wireline footprint or to match the existing service area of any cable operator.

SEC. 9. Section 5900 of the Public Utilities Code is amended to read:

5900. (a) The holder of a state franchise shall comply with the provisions of Sections 53055, 53055.1, 53055.2, and 53088.2 of the Government Code, and any other customer service standards pertaining to the provision of video service established by federal law or regulation or adopted by subsequent enactment of the Legislature. All customer service and consumer protection standards under this section shall be

interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

(b) The holder of a state franchise shall comply with provisions of Section 637.5 of the Penal Code and the privacy standards contained in Section 551 et seq. of Title 47 of the United States Code.

(c) The local entity shall enforce all of the customer service and protection standards of this section with respect to complaints received from residents within the local entity's jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or other performance standards under Section 53055.3 or subdivision (q), (r), or (s) of Section 53088.2 of the Government Code, or any other authority or provision of law.

(d) The local entity shall, by ordinance or resolution, provide a schedule of penalties for any material breach by a holder of a state franchise of this section. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the holder. Further, no monetary penalties may be imposed prior to January 1, 2007. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed five hundred dollars ($500) for each day of each material breach, not to exceed one thousand five hundred dollars ($1,500) for each occurrence of a material breach. However, if a material breach of this section has occurred, and the local entity has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the penalties may be increased by the local entity to a maximum of one thousand dollars ($1,000) for each day of each material breach, not to exceed three thousand dollars ($3,000) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the local entity has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of two thousand five hundred dollars ($2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars ($7,500) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar-for-dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed.

(e) The local entity shall give the video service provider written notice of any alleged material breach of the customer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified material breach.

(f) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of each local entity, following the expiration of the period specified in subdivision (e), that any material breach has not been remedied by the video service provider, irrespective of the number of customers or subscribers affected.

(g) Any penalty assessed pursuant to this section shall be remitted to the local entity, which shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

(h) Any interested person may seek judicial review of a decision of the local entity in a court of appropriate jurisdiction. For this purpose, a court of law shall conduct a de novo review of any issues presented.

(i) This section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a local franchising entity, pursuant to this section shall not be binding upon a court of law. For this purpose, a court of law shall conduct de novo review of any issues presented.

(j) For purposes of this section, "material breach" means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in subdivision (a).

(k) The Division of Ratepayer Advocates shall have authority to advocate on behalf of video subscribers regarding renewal of a state-issued franchise and enforcement of this section, and Sections 5890 and 5950. For this purpose, the division shall have access to any information in the possession of the commission subject to all restrictions on disclosure of that information that are applicable to the commission.

SEC. 10. Section 5910 of the Public Utilities Code is amended to read:

5910. (a) The holder of a state franchise shall perform background checks of applicants for employment, according to current business practices.

(b) A background check equivalent to that performed by the holder shall also be conducted on all of the following:

(1) Persons hired by a holder under a personal service contract.

(2) Independent contractors and their employees.

(3) Vendors and their employees.

(c) Independent contractors and vendors shall certify that they have obtained the background checks required pursuant to subdivision (b), and shall make the background checks available to the holder upon request.

(d) Except as otherwise provided by contract, the holder of a state franchise shall not be responsible for administering the background

checks and shall not assume the costs of the background checks of individuals who are not applicants for employment of the holder.

(e) (1) Subdivision (a) only applies to applicants for employment for positions that would allow the applicant to have direct contact with or access to the holder's network, central office, or subscriber premises, and perform activities that involve the installation, service, or repair of the holder's network or equipment.

(2) Subdivision (b) only applies to persons that have direct contact with or access to the holder's network, central office, or subscriber premises, and perform activities that involve the installation, service, or repair of the holder's network or equipment.

(f) This section does not apply to temporary workers performing emergency functions to restore the network of a holder to its normal state in the event of a natural disaster or an emergency that threatens or results in the loss of service.

SEC. 11. Section 5930 of the Public Utilities Code is amended to read:

5930. (a) Notwithstanding any other provision of this division, any video service provider that currently holds a franchise with a local franchising entity in a county that is a party, either alone or in conjunction with any other local franchising entity located in that county, to a stipulation and consent judgment executed by the parties thereto and approved by a federal district court shall neither be entitled to seek a state franchise in any area of that county, including any unincorporated area and any incorporated city of that county, nor abrogate any existing franchise before July 1, 2014. Prior to July 1, 2014, the video service provider shall continue to be exclusively governed by any existing franchise with a local franchising entity for the term of that franchise and any and all issues relating to renewal, transfer, or otherwise in relation to that franchise shall be resolved pursuant to that existing franchise and otherwise applicable federal and local law. This subdivision shall not be deemed to extend any existing franchise beyond its term.

(b) When an incumbent cable operator is providing service under an expired franchise or a franchise that expires before January 2, 2008, the local entity may extend that franchise on the same terms and conditions through January 2, 2008. A state franchise issued to any incumbent cable operator shall not become operative prior to January 2, 2008.

(c) When a video service provider that holds a state franchise provides the notice required pursuant to subdivision (n) of Section 5840 to a local entity, the local franchising entity may require all incumbent cable operators to seek a state franchise and shall terminate the franchise issued by the local franchising entity when the commission issues a state franchise for the video service provider that includes the entire service

area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

SEC. 12. Section 5960 of the Public Utilities Code is amended to read:

5960. (a) For purposes of this section, "census tract" has the same meaning as used by the United States Census Bureau, and "household" has the same meaning as specified in Section 5890.

(b) Every holder, no later than April 1, 2008, and annually no later than April 1 thereafter, shall report to the commission on a census tract basis the following information:

(1) Broadband information:

(A) The number of households to which the holder makes broadband available in this state. If the holder does not maintain this information on a census tract basis in its normal course of business, the holder may reasonably approximate the number of households based on information it keeps in the normal course of business.

(B) The number of households that subscribe to broadband that the holder makes available in this state.

(C) Whether the broadband provided by the holder utilizes wireline-based facilities or another technology.

(2) Video information:

(A) If the holder is a telephone corporation:

(i) The number of households in the holder's telephone service area.

(ii) The number of households in the holder's telephone service area that are offered video service by the holder.

(B) If the holder is not a telephone corporation:

(i) The number of households in the holder's video service area.

(ii) The number of households in the holder's video service area that are offered video service by the holder.

(3) Low-income household information:

(i) The number of low-income households in the holder's video service area.

(ii) The number of low-income households in the holder's video service area that are offered video service by the holder.

(c) The commission, no later than July 1, 2008, and annually no later than July 1 thereafter, shall submit to the Governor and the Legislature a report that includes based on year-end data, on an aggregated basis, the information submitted by holders pursuant to subdivision (b).

(d) All information submitted to the commission and reported by the commission pursuant to this section shall be disclosed to the public only as provided for pursuant to Section 583. No individually identifiable customer or subscriber information shall be subject to public disclosure.

SEC. 13. Section 107.7 of the Revenue and Taxation Code is amended to read:

107.7. (a) When valuing possessory interests in real property created by the right to place wires, conduits, and appurtenances along or across public streets, rights-of-way, or public easements contained in either a cable franchise or license granted pursuant to Section 53066 of the Government Code (a "cable possessory interest") or a state franchise to provide video service pursuant to Section 5840 of the Public Utilities Code (a "video possessory interest"), the assessor shall value these possessory interests consistent with the requirements of Section 401. The methods of valuation shall include, but not be limited to, the comparable sales method, the income method (including, but not limited to, capitalizing rent), or the cost method.

(b) (1) The preferred method of valuation of a cable television possessory interest or video service possessory interest by the assessor is capitalizing the annual rent, using an appropriate capitalization rate.

(2) For purposes of this section, the annual rent shall be that portion of that franchise fee received that is determined to be payment for the cable possessory interest or video service possessory interest for the actual remaining term or the reasonably anticipated term of the franchise or license or the appropriate economic rent. If the assessor does not use a portion of the franchise fee as the economic rent, the resulting assessments shall not benefit from any presumption of correctness.

(c) If the comparable sales method, which is not the preferred method, is used by the assessor to value a cable possessory interest or video service possessory interest when sold in combination with other property including, but not limited to, intangible assets or rights, the resulting assessments shall not benefit from any presumption of correctness.

(d) Intangible assets or rights of a cable system or the provider of video services are not subject to ad valorem property taxation. These intangible assets or rights, include, but are not limited to: franchises or licenses to construct, operate, and maintain a cable system or video service system for a specified franchise term (excepting therefrom that portion of the franchise or license which grants the possessory interest), subscribers, marketing, and programming contracts, nonreal property lease agreements, management and operating systems, a work force in place, going concern value, deferred, startup, or prematurity costs, covenants not to compete, and goodwill. However, a cable possessory interest or video service possessory interest may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the cable possessory interest or video service possessory interest to beneficial or productive use in an operating cable system or video service system.

(e) Whenever any change in ownership of a cable possessory interest or video service possessory interest occurs, the person or legal entity required to file a statement pursuant to Section 480, 480.1, or 480.2, shall, at the request of the assessor, provide as a part of that statement the following, if applicable: confirmation of the sales price; allocation of the sales price among the counties; and gross revenue and franchise fee expenses of the cable system or video service system by county. Failure to provide this information shall result in a penalty as provided in Section 482, except that the maximum penalty shall be five thousand dollars ($5,000).

CHAPTER 124

An act to amend Sections 16522.5, 77051, 77922, 77961, 78839, 78921, and 78923 of, to add Section 68082 to, and to add Article 9 (commencing with Section 68141) to Chapter 6 of Part 2 of Division 22 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 16522.5 of the Food and Agricultural Code is amended to read:

16522.5. (a) A dairy exemption number shall be evidence of ownership of cull beef cows and bulls of a recognized dairy breed presented for sale at a registered or posted salesyard, or licensed slaughter plant for immediate slaughter. Any person owning a dairy farm as defined in Section 32505 may apply to the secretary for an exemption number.

(b) Every five years, the secretary may charge a fee to cover the cost of issuing and renewing a dairy exemption number. The fee may not exceed fifty dollars ($50). The secretary may refuse to issue such number to persons who have violated any provision of Division 9 (commencing with Section 16301), Division 10 (commencing with Section 20001), or Division 11 (commencing with Section 23001) of the Food and Agricultural Code, or to persons convicted of livestock theft.

(c) The dairy exemption number shall be written on the bill of consignment, defined in Section 21703, when the cattle and consignment slip are presented to an inspector at the registered or posted salesyard, or licensed slaughter plant. The salesyard operator shall display the letters "EX" in the description line of the salesyard outbilling. An exemption

number shall be deemed to meet the identification information requirements of Section 21703. The cows shall be consigned, owned, and sold in the name of the person having the exemption number.

(d) The secretary may revoke the dairy exemption number of any person who violates any provision of Division 9 (commencing with Section 16301), Division 10 (commencing with Section 20001), or Division 11 (commencing with Section 23001) of the Food and Agricultural Code, or who is convicted of livestock theft.

SEC. 2. Section 68082 is added to the Food and Agricultural Code, to read:

68082. (a) In order to prevent unfair trade practices, which are detrimental to California's kiwifruit industry, including, but not limited to, deception and misinformation, the commission may collect and disseminate to any and all interested persons, handler f.o.b., market price information based on sales that have occurred.

(b) The identity of each handler reporting information and the information reported under this section shall be kept confidential and not made public under any circumstances. Information that gives industry totals, averages, and other similar data may be disclosed by the commission.

(c) The procedure for the collection and dissemination of the information pursuant to this section shall be approved by the secretary.

SEC. 3. Article 9 (commencing with Section 68141) is added to Chapter 6 of Part 2 of Division 22 of the Food and Agricultural Code, to read:

Article 9. Quality Standards

68141. The commission may recommend to the secretary the adoption of kiwifruit quality standards or engage in any other activity authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21). The adoption of standards or activities shall be in accordance with the procedures specified in that act unless otherwise specified in this article.

68142. Any standards or activities recommended by the commission shall not become operative until approved in the manner specified in Section 68092.

68143. Any standards or activities adopted pursuant to this article shall be implemented by the secretary at the beginning of the marketing season next succeeding the date on which they were approved by the secretary.

68144. The commission shall serve as the advisory body to the secretary on all matters pertaining to this article.

SEC. 4. Section 77051 of the Food and Agricultural Code is amended to read:

77051. (a) There is in state government the California Walnut Commission. The commission shall be composed of eight walnut producers who are not handlers, four walnut handlers, and one public member.

(b) Eight producer members, four from each district, shall be elected by producers. In accordance with procedures adopted by the commission, no more than two producers from each district who ship the largest percentage of their walnuts in the preceding marketing year to the same handler may be elected to the commission as members. Producers who ship to two or more handlers in equal percentages shall declare which handler they are affiliated with, for purposes of this section. No producer member shall be connected in a proprietary capacity with a handler.

(c) In accordance with procedures adopted by the commission, four handler members shall be elected on a weighted basis by all handlers to serve on the commission. No handler member shall be connected in a proprietary capacity or in any other manner with any other handler member serving on the commission.

(d) The public member shall be appointed to the commission by the secretary from nominees recommended by the commission.

(e) The secretary and other appropriate individuals as determined by the commission shall be ex officio members of the commission.

SEC. 5. Section 77922 of the Food and Agricultural Code is amended to read:

77922. "Shipping research, analysis, and development" means the investigation, development, analysis, or use of information relating to the shipping of flower products and the development of shipping opportunities, practices, and methods in this state, nationally, and internationally.

SEC. 6. Section 77961 of the Food and Agricultural Code is amended to read:

77961. (a) The commission may advertise or otherwise promote the sale of flowers.

(b) The commission may jointly advertise or otherwise promote the sale of flowers with any other corporation or organization advertising or otherwise promoting the sale of any other product or commodity.

(c) The commission may work, and cooperate with others, to develop and arrange for shipping alternatives for producers in order to improve the quality of flowers and access to markets.

SEC. 7. Section 78839 of the Food and Agricultural Code is amended to read:

78839. "Vintner" and "processor" are synonymous and, except as otherwise specifically provided in this chapter, mean any person engaged in Mendocino County in producing or causing to be produced must, grape juice, grape concentrate, wine, or other winegrape products, including high proof and brandy, and includes a "winegrower" in Mendocino County as that term is defined in Section 23013 of the Business and Professions Code, who produces wine from winegrapes. However, a producer does not become a vintner solely by the act of field crushing winegrapes before delivering the winegrapes as must to another person.

SEC. 8. Section 78921 of the Food and Agricultural Code is amended to read:

78921. Prior to the beginning of each marketing season, or as soon as possible thereafter, the commission shall establish assessment rates for the marketing season, as follows:

(a) An annual assessment on producers of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), as determined by the commission, based on the number of tons of winegrapes marketed during the preceding marketing season.

(b) In addition, producers shall pay an assessment not less than one dollar ($1) and not greater than twelve dollars ($12) per ton of winegrapes marketed by producers. In the discretion of the commission, the producer assessment may be established as a percent of the gross dollar value received by producers for winegrapes rather than on a per ton basis. The assessment shall be established on a sliding scale that decreases the assessment by two dollars ($2) per ton, or the percentage equivalent if the assessment is a percent of gross dollar value, for every 500 tons of winegrapes marketed by producers in excess of 1000 tons.

(c) An annual assessment on vintners of not less than three hundred fifty dollars ($350) and not more than seven thousand five hundred dollars ($7,500), as determined by the commission, based on the number of tons of winegrapes processed and marketed by vintners during the preceding marketing season.

(d) In addition, vintners shall pay an assessment not less than one dollar ($1) and not greater than twelve dollars ($12) per ton of winegrapes processed by vintners for which an assessment has not already been paid by a producer. The assessment shall be established on a sliding scale that decreases the assessment by two dollars ($2) per ton for every 500 tons of winegrapes processed by vintners in excess of 1000 tons.

(e) An assessment greater than the amount provided for in this section may not be charged unless and until a greater amount is approved by a majority of the commission and by eligible producers and vintners pursuant to the referendum procedures specified in Section 78903.

SEC. 9. Section 78923 of the Food and Agricultural Code is amended to read:

78923. This chapter shall not apply to winegrapes produced for a producer's home or ornamental use, or processed for a vintner's home use. A producer growing winegrapes commercially on three acres or less shall be exempted from the base assessment in subdivision (a) of Section 78921. Any producer or vintner requesting an exemption from the payment of assessments shall provide an affidavit approved by the commission containing information required by the commission. The commission shall review the affidavit, conduct any additional investigation it deems appropriate, and approve or deny the exemption. If granted, the exemption shall be valid for one marketing season and a new affidavit shall be filed and approved prior to each marketing season in order to retain an exemption from this chapter.

CHAPTER 125

An act to amend Sections 320, 9237, and 13308 of the Elections Code, relating to elections.

[Approved by Governor July 20, 2007. Filed with Secretary of State July 20, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 320 of the Elections Code is amended to read:

320. "Elections official" means any of the following:

(a) A clerk or any person who is charged with the duty of conducting an election.

(b) A county clerk, city clerk, registrar of voters, or elections supervisor having jurisdiction over elections within any county, city, or district within the state.

SEC. 2. Section 9237 of the Elections Code is amended to read:

9237. If a petition protesting the adoption of an ordinance, and circulated by a person who is a registered voter or who is qualified to be a registered voter of the city, is submitted to the elections official of the legislative body of the city in his or her office during normal office hours, as posted, within 30 days of the date the adopted ordinance is attested by the city clerk or secretary to the legislative body, and is signed by not less than 10 percent of the voters of the city according to the county elections official's last official report of registration to the Secretary of State, or, in a city with 1,000 or less registered voters, is

signed by not less than 25 percent of the voters or 100 voters of the city, whichever is the lesser, the effective date of the ordinance shall be suspended and the legislative body shall reconsider the ordinance.

SEC. 3. Section 13308 of the Elections Code is amended to read:

13308. In addition to the restrictions set forth in Section 13307, any candidate's statement submitted pursuant to Section 13307 shall be limited to a recitation of the candidate's own personal background and qualifications, and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities. The elections official shall not cause to be printed or circulated any statement that the elections official determines is not so limited or that includes any reference prohibited by this section.

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.

CHAPTER 126

An act relating to recall and special elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 2007. Filed with Secretary of State July 25, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that there exists a need for an experienced, objective, impartial, and professional entity to conduct any recall or special election that is held in the City of Lynwood in the County of Los Angeles during the 2007 and 2008 calendar years. It is the intent of the Legislature in enacting this statute to ensure the integrity, efficiency, and lawful conduct of recall and special elections in the City of Lynwood, to avoid real bias or the perception of bias or impropriety, and to strengthen the public's confidence in the fair and free operation of the election process and the reporting of election results.

SEC. 2. Any recall or special election in the City of Lynwood held during the 2007 and 2008 calendar years shall be administered, for all purposes, by the County of Los Angeles Registrar-Recorder/County Clerk upon approval by the Board of Supervisors of the County of Los Angeles.

SEC. 3. (a) The City of Lynwood shall pay from its city treasury for all expenses authorized and necessarily incurred in conducting any special or recall election held during the 2007 and 2008 calendar years. These expenses shall be paid to the County of Los Angeles to reimburse the county for the costs of conducting the special or recall election.

(b) If payment is not made in a timely manner, and after sufficient notice to the City of Lynwood, the Board of Supervisors of the County of Los Angeles may pass a resolution informing the Controller that some or all of the amount due is outstanding.

(c) Following receipt of the resolution, the Controller shall deduct from apportionments scheduled for periodic distribution to the City of Lynwood, from any unrestricted funds or moneys, the outstanding balance owed and instead pay the amount to the County of Los Angeles.

SEC. 4. The Legislature finds and declares that because of the unique circumstances of the City of Lynwood, relating to the conduct of elections, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, it is necessary to enact a special statute applicable only to the City of Lynwood.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that recall or special elections in the City of Lynwood proceed in a timely fashion in accordance with state law, and to preserve the public's confidence in the electoral process and the voters' reserve power to recall elected officials, it is necessary that this act take effect immediately.

CHAPTER 127

An act to add and repeal Section 8690.6 of the Government Code, relating to emergency services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 2007. Filed with
Secretary of State July 25, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8690.6 is added to the Government Code, to read:

8690.6. (a) The Disaster Response-Emergency Operations Account is hereby established in the Special Fund for Economic Uncertainties. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency, as defined in subdivision (b) of Section 8558. These allocations may be for activities that occur within 120 days after a proclamation of emergency by the Governor.

(b) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars ($1,000,000) at the beginning of each fiscal year. If this account requires additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in an amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(c) Funds shall be allocated from the account subject to the conditions of this section and upon notification by the Director of Finance to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house.

(d) Notwithstanding any other law, authorizations for acquisitions, relocations, and environmental mitigations related to activities, as described in subdivision (a), shall be authorized pursuant to this section. However, these funds shall be authorized only for needs that are a direct consequence of the proclaimed emergency if failure to undertake the project may interrupt essential state services or jeopardize public health or safety. In addition, any acquisition accomplished under this subdivision shall comply with any otherwise applicable law, except as provided in the first sentence of this subdivision.

(e) No funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(f) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.

(g) No public entity administering disaster assistance to individuals shall receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language as that used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(h) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 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 Disaster Response-Emergency Operations Account established pursuant to Section 8690.6 of the Government Code may continue in uninterrupted existence, it is necessary that this act take effect immediately.

CHAPTER 128

An act to amend Section 4600 of the Fish and Game Code, and to add Section 53074.5 to the Government Code, relating to fish and game, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4600 of the Fish and Game Code is amended to read:

4600. (a) It is unlawful to kill, wound, capture, or have in possession any undomesticated burro, except as provided in Section 53074.5 of the Government Code.

(b) As used in this section, "undomesticated burro" means a wild burro or a burro which has not been tamed or domesticated for a period of three years after its capture. The fact that a burro was killed, wounded, or captured on publicly owned land, or on land owned by a person other than the person who killed, wounded, or captured the burro is prima facie evidence that the burro was an undomesticated burro at the time it was killed, wounded, or captured.

(c) Neither the commission nor any other department or agency has any power to modify the provisions of this section by any order, rule, or regulation.

SEC. 2. Section 53074.5 is added to the Government Code, to read:

53074.5. (a) For purposes of this section, "undomesticated burro" means a wild burro or a burro which has not been tamed or domesticated for a period of three years after its capture and is not protected by the federal government under the federal Wild Free-Roaming Horses and Burros Act (Chapter 30 (commencing with Section 1331) of Title 16 of the United States Code).

(b) At the request of the landowner, an officer or employee of a local animal control agency may remove an undomesticated burro that strays onto private land.

(c) An officer or employee of a local animal control agency may remove an undomesticated burro that strays onto a public roadway to ensure public safety.

(d) An officer or employee of a local animal control agency may provide medical care or treatment, including, but not limited to, euthanasia if medically appropriate, to an undomesticated burro that is seriously ill or injured.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize a state or local agency to conduct activities to protect undomesticated burros on state or private lands from capture, branding, harassment, or death as soon as possible, thereby preserving the public peace, health, and safety, it is necessary that this act take immediate effect.

CHAPTER 129

An act to amend Section 5011.5 of the Public Resources Code, relating to parks.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5011.5 of the Public Resources Code is amended to read:

5011.5. (a) A veteran of a war in which the United States has been, or may be engaged, who is a resident of this state, upon presentation to the department of proof of disability, proof of being held captive as a prisoner of war, or proof of being a recipient of a Congressional Medal of Honor, and proof of an honorable discharge from service, upon application therefor, shall be issued a pass entitling the bearer to the use of all facilities, including boat launching facilities, in units of the state park system.

(b) As used in this section:

(1) "Veteran" means a former member of the Armed Forces of the United States who has a 50 percent or greater service-connected disability, or who was held as a prisoner of war by forces hostile to the United States, as certified by the United States Department of Veterans Affairs, and who was honorably discharged from service.

(2) "War" means that period of time commencing when Congress declares war or when the Armed Forces of the United States are engaged in active military operations against a foreign power, whether or not war has been formally declared, and ending upon the termination of hostilities as proclaimed by the President of the United States.

CHAPTER 130

An act to amend Sections 650, 725, 1265.1, 1725, 2023.5, 2135.5, 2168.1, 2516, 2533, 2684, 4122, 4162.5, 4181, 4191, 4989.54, 4989.70, 4996.17, 5050.2, 6002.1, 6061, 6071, 6079.1, 6086.65, 6126, 6145, 6321, 6501, 7017.3, 7145.5, 7159, 7159.9, 18711, and 19601 of the Business and Professions Code, to amend Section 1788.18 of the Civil Code, to amend Sections 340.7, 1245.245, and 1277 of, and to amend and renumber the heading of Title 9.3 (commencing with Section 1298) of Part 3 of, the Code of Civil Procedure, to amend Sections 1157, 15901.02, 15901.10, 15901.16, 15903.03, 15905.06, 15911.12, and 15911.26 of the Corporations Code, to amend Sections 317, 10600, 10601, 10601.5, 15146, 17077.42, 17078.53, 17213, 22950, 24300.2, 32221.5, 33126, 33126.1, 33353, 33354, 33370, 35179, 35900, 35932, 37220, 41207.1, 42238.51, 44041, 44041.5, 44468, 49561, 51221.4, 51251, 51871.5, 52052, 52055.730, 52055.770, 60640, 60900, 87040, and 87040.5 of the Education Code, to amend Sections 782 and 1117 of the Evidence Code, to amend Sections 177, 216, 291, 1816, 5614, 8623, 8632.5, 8919, and 9205 of the Family Code, to amend Sections 17419 and 22168 of the Financial Code, to amend Sections 5650, 12003.2, and 13007 of the Fish and Game Code, to amend Sections 19348.1, 33251, 33261, 33262, and 33297 of, and to amend and renumber Section 79843

of, the Food and Agricultural Code, to amend Sections 905, 6103.2,7072, 7085.1, 8592.1, 8610, 8880.325, 9359, 9359.1, 12011.5, 13952, 13955, 14995, 16584, 17558.8, 19822.3, 20037.7, 20479, 20636, 21150, 21227, 26744.5, 31485.7, 31485.8, 53343.1, 53635.8, 68661, 69927, 70311, 70359, 70640, 71601, 71615, 71639, 71675, 77003, 77009, 77200, 77201.1, 77202, 77203, 77209, 85316, and 89513 of, to amend and renumber Section 19632 of, to repeal and amend Section 77201 of, and to amend the heading of Chapter 8.1 (commencing with Section 8710) of Division 1 of Title 2 of, the Government Code, to amend Sections 1250.8, 1262.4, 1265.5, 1265.6, 1266.9, 1279.1, 1568.09, 1575.7, 1597.46, 1604.6, 11162.1, 11592, 11773.1, 18080.5, 38505, 43869, 44525.6, 53533, 101965, 106780, 108680, 109280, 110552, 118280, 120155, 120440, 124116.5, 124174, 124900, 127400, 127405, 127410, and 127425 of the Health and Safety Code, to amend Section 1194.82 of the Insurance Code, to amend Section 3201.81 of the Labor Code, to amend Sections 186.9, 271.5, 290, 295, 298.1, 374.5, 977, 1037.1, 1037.2, and 12082 of the Penal Code, to amend Sections 1458, 2352.5, and 4690 of the Probate Code, to amend Sections 21071 and 22154 of the Public Contract Code, to amend Sections 5096.805, 5096.821, 5097.98, 5645, 6314, 14581, 16053, 21151.8, 21167.6, 25205, 25303, 25310, 25742, 25743, 29735, 30340.5, 42310.3, and 48023 of, and to amend and renumber the heading of Chapter 12 (commencing with Section 5860) of Division 5 of, the Public Resources Code, to amend Sections 303, 399.12, 399.20, 421, 455.1, 7662, 7665.2, 8340, 8341, and 132610 of the Public Utilities Code, to amend Sections 18766, 18847.3, 19533, 23704.4, and 30182 of the Revenue and Taxation Code, to amend Sections 97, 97.1, 143, and 149.7 of the Streets and Highways Code, to amend Sections 5160, 11713.1, 12804.9, 13352, 13352.1, and 13353.2 of the Vehicle Code, to amend Sections 13385, 21100, and 50780.10 of the Water Code, to amend Sections 202, 319, 4094, 9103, 11155.6, 14107.2, 14115, 14123.05, 14166.18, 16540, 16541.5, 16542, 16545, 16809, 16809.3, 18309, 18945, and 18951 of the Welfare and Institutions Code, to amend Section 17 of the Orange County Water District Act, and to amend Section 1 of Chapter 34, Section 1 of Chapter 323, and Section 1 of Chapter 710 of the Statutes of 2006, relating to the maintenance of the codes.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee, which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) (1) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) in the following situations:

(A) In the case of a hospital, by the hospital to members of its medical staff.

(B) In the case of a group medical practice, by the practice to prescribing health care professionals that are members of the practice.

(C) In the case of Medicare prescription drug plan sponsors or Medicare Advantage organizations, by the sponsor or organization to pharmacists and pharmacies participating in the network of the sponsor or organization and to prescribing health care professionals.

(2) The exceptions set forth in this subdivision are adopted to conform state law with the provisions of Section 1860D-4(e)(6) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are limited to drugs covered under Part D of the federal Medicare Program that are prescribed to Part D eligible individuals (42 U.S.C. Sec. 1395w-101).

(3) The exceptions set forth in this subdivision shall not be operative until the regulations required to be adopted by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1860D-4(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395W-104) are effective. If the California Health and Human Services Agency determines that regulations are necessary to ensure that implementation of the provisions of paragraph (1) is consistent with the regulations adopted by the Secretary of the United States Department of Health and Human Services, it shall adopt emergency regulations to that effect.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, or any other health facility licensed by the State Department of Health Services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by

imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars ($50,000).

SEC. 2. Section 725 of the Business and Professions Code is amended to read:

725. (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

SEC. 3. Section 1265.1 of the Business and Professions Code is amended 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 that submission, 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. 4. 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 Bureau for Private Postsecondary and Vocational Education, or the office of the Chancellor

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 Bureau for Private Postsecondary and Vocational Education, or the office of the Chancellor of the California Community Colleges shall not exceed three hundred dollars ($300).

(m) No fees or charges other than those listed in subdivisions (a) to (*l*), inclusive, 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. 5. Section 2023.5 of the Business and Professions Code is amended to read:

2023.5. (a) The board, in conjunction with the 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.

SEC. 6. Section 2135.5 of the Business and Professions Code is amended to read:

2135.5. Upon review and recommendation, the Division of Licensing may determine that an applicant for a physician's and surgeon's certificate has satisfied the medical curriculum requirements of Section 2089, the clinical instruction requirements of Sections 2089.5 and 2089.7, and the examination requirements of Section 2170 if the applicant meets all of the following criteria:

(a) He or she holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of four years prior to the date of application.

(b) He or she is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(c) He or she is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(d) He or she has not graduated from a medical school that has been disapproved by the division or that does not provide a resident course of instruction.

(e) He or she has graduated from a medical school recognized by the division. If the applicant graduated from a medical school that the division recognized after the date of the applicant's graduation, the division may evaluate the applicant under its regulations.

(f) He or she has not been the subject of a disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the division, constitutes a pattern of negligence or incompetence.

SEC. 7. Section 2168.1 of the Business and Professions Code is amended to read:

2168.1. (a) Any person who meets all of the following eligibility requirements may apply for a special faculty permit:

(1) Is academically eminent. For purposes of this article, "academically eminent" means the applicant meets either of the following criteria:

(A) He or she holds or has been offered a full-time appointment at the level of full professor in a tenure track position, or its equivalent, at a California medical school approved by the Division of Licensing.

(B) He or she is clearly outstanding in a specific field of medicine or surgery and has been offered by the dean of a medical school in this state a full-time academic appointment at the level of full professor or associate professor, and a great need exists to fill that position.

(2) Possesses a current valid license to practice medicine issued by another state, country, or other jurisdiction.

(3) Is not subject to denial under Section 480 or any provision of this chapter.

(4) Pays the fee prescribed for application for, and initial licensure as, a physician and surgeon.

(5) Has not held a position under Section 2113 for a period of two years or more preceding the date of the application. The Division of Licensing may, in its discretion, waive this requirement.

(b) The Division of Licensing shall exercise its discretion in determining whether an applicant satisfies the requirements of paragraph (1) of subdivision (a).

(c) (1) The division shall establish a review committee comprised of two members of the division, one of whom shall be a physician and surgeon and one of whom shall be a public member, and one representative from each of the medical schools in California. The committee shall review and make recommendations to the division regarding the applicants applying pursuant to this section, including those applicants that a medical school proposes to appoint as a division chief or head of a department or as nontenure track faculty.

(2) The representative of the medical school offering the applicant an academic appointment shall not participate in any vote on the recommendation to the division for that applicant.

SEC. 8. Section 2516 of the Business and Professions Code is amended to read:

2516. (a) Each licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted in March, with the first report due in March 2008, for the prior calendar year, in a form specified by the board and shall contain all of the following:

(1) The midwife's name and license number.

(2) The calendar year being reported.

(3) The following information with regard to cases in which the midwife, or the student midwife supervised by the midwife, assisted during the previous year when the intended place of birth at the onset of care was an out-of-hospital setting:

(A) The total number of clients served as primary caregiver at the onset of care.

(B) The total number of clients served with collaborative care available through, or given by, a licensed physician and surgeon.

(C) The total number of clients served under the supervision of a licensed physician and surgeon.

(D) The number by county of live births attended as primary caregiver.

(E) The number, by county, of cases of fetal demise attended as primary caregiver at the discovery of the demise.

(F) The number of women whose primary care was transferred to another health care practitioner during the antepartum period, and the reason for each transfer.

(G) The number, reason, and outcome for each elective hospital transfer during the intrapartum or postpartum period.

(H) The number, reason, and outcome for each urgent or emergency transport of an expectant mother in the antepartum period.

(I) The number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intrapartum or immediate postpartum period.

(J) The number of planned out-of-hospital births at the onset of labor and the number of births completed in an out-of-hospital setting.

(K) The number of planned out-of-hospital births completed in an out-of-hospital setting that were any of the following:

(i) Twin births.

(ii) Multiple births other than twin births.

(iii) Breech births.

(iv) Vaginal births after the performance of a cesarean section.

(L) A brief description of any complications resulting in the mortality of a mother or an infant.

(M) Any other information prescribed by the board in regulations.

(b) The Office of Statewide Health Planning and Development shall maintain the confidentiality of the information submitted pursuant to this section, and shall not permit any law enforcement or regulatory agency to inspect or have copies made of the contents of any reports submitted pursuant to subdivision (a) for any purpose, including, but not limited to, investigations for licensing, certification, or regulatory purposes.

(c) The office shall report to the board, by April, those licensees who have met the requirements of subdivision (a) for that year.

(d) The board shall send a written notice of noncompliance to each licensee who fails to meet the reporting requirement of subdivision (a). Failure to comply with subdivision (a) will result in the midwife being unable to renew his or her license without first submitting the requisite data to the Office of Statewide Health Planning and Development for the year for which that data was missing or incomplete. The board shall not take any other action against the licensee for failure to comply with subdivision (a).

(e) The board, in consultation with the office and the Midwifery Advisory Council, shall devise a coding system related to data elements that require coding in order to assist in both effective reporting and the aggregation of data pursuant to subdivision (f). The office shall utilize

this coding system in its processing of information collected for purposes of subdivision (f).

(f) The office shall report the aggregate information collected pursuant to this section to the board by July of each year. The board shall include this information in its annual report to the Legislature.

(g) Notwithstanding any other provision of law, a violation of this section shall not be a crime.

SEC. 9. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct shall include, but shall not be limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself, of any controlled substance; (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraphs (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.

(e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

SEC. 10. Section 2684 of the Business and Professions Code is amended to read:

2684. (a) Notwithstanding Section 2422, any license or approval for the practice of physical therapy shall expire at midnight on the last day of the birth month of the licensee or holder of the approval during the second year of a two-year term, if not renewed.

(b) To renew an unexpired license or approval, the licensee or the holder of the approval shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit proof of the completion of continuing education or competency required by the board pursuant to Article 6.5 (commencing with Section 2676). The licensee or holder of the approval shall disclose on his or her license renewal application any misdemeanor or other criminal offense for which he or she has been found guilty or to which he or she has pleaded guilty or no contest.

(c) A license or approval that has expired may be renewed within five years upon payment of all accrued and unpaid renewal fees and satisfaction of the requirements described in subdivision (b).

SEC. 11. Section 4122 of the Business and Professions Code is amended to read:

4122. (a) In every pharmacy there shall be prominently posted in a place conspicuous to, and readable by, prescription drug consumers a notice provided by the board concerning the availability of prescription price information, the possibility of generic drug product selection, the type of services provided by pharmacies, and a statement describing patients' rights relative to the requirements imposed on pharmacists pursuant to Section 733. The format and wording of the notice shall be adopted by the board by regulation. A written receipt that contains the required information on the notice may be provided to consumers as an alternative to posting the notice in the pharmacy.

(b) A pharmacist, or a pharmacist's employee, shall give the current retail price for any drug sold at the pharmacy upon request from a consumer, however that request is communicated to the pharmacist or employee.

(c) If a requester requests price information on more than five prescription drugs and does not have valid prescriptions for all of the drugs for which price information is requested, a pharmacist may require the requester to meet any or all of the following requirements:

(1) The request shall be in writing.

(2) The pharmacist shall respond to the written request within a reasonable period of time. A reasonable period of time is deemed to be 10 days, or the time period stated in the written request, whichever is later.

(3) A pharmacy may charge a reasonable fee for each price quotation, as long as the requester is informed that there will be a fee charged.

(4) No pharmacy shall be required to respond to more than three requests as described in this subdivision from any one person or entity in a six-month period.

(d) This section shall not apply to a pharmacy that is located in a licensed hospital and that is accessible only to hospital medical staff and personnel.

(e) Notwithstanding any other provision of this section, no pharmacy shall be required to do any of the following:

(1) Provide the price of any controlled substance in response to a telephone request.

(2) Respond to a request from a competitor.

(3) Respond to a request from an out-of-state requester.

SEC. 12. Section 4162.5 of the Business and Professions Code is amended to read:

4162.5. (a) (1) An applicant for the issuance or renewal of a nonresident wholesaler license shall submit a surety bond of one hundred thousand dollars ($100,000), or other equivalent means of security acceptable to the board, such as an irrevocable letter of credit, or a deposit in a trust account or financial institution, payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purpose of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars ($100,000) if the annual gross receipts of the previous tax year for the nonresident wholesaler is ten million dollars ($10,000,000) or less in which the surety bond shall be twenty-five thousand dollars ($25,000).

(3) For applicants who satisfy paragraph (2), the board may require a bond up to one hundred thousand dollars ($100,000) for any nonresident wholesaler who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(4) A person to whom an approved new drug application or a biologics license application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application or biologics license application, and is licensed or applies for licensure as a nonresident wholesaler, shall not be required to post a surety bond as provided in this section.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days of the issuance of the fine or when the costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall become inoperative and is repealed on January 1, 2011, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.

SEC. 13. Section 4181 of the Business and Professions Code is amended to read:

4181. (a) Prior to the issuance of a clinic license authorized under Section 4180, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services relating to the drug distribution service to ensure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation occur in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

SEC. 14. Section 4191 of the Business and Professions Code is amended to read:

4191. (a) Prior to the issuance of a clinic license authorized under this article, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services and the board relating to drug distribution to ensure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation are carried out in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic that has received a license under this article shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

SEC. 15. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional

conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license 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 a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or

possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(*l*) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An

educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

SEC. 16. Section 4989.70 of the Business and Professions Code is amended to read:

4989.70. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

SEC. 17. Section 4996.17 of the Business and Professions Code is amended to read:

4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The board may issue a license to any person who, at the time of application, has held a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, has held a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

SEC. 18. Section 5050.2 of the Business and Professions Code is amended to read:

5050.2. (a) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the holder of an authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be a violation of this code or grounds for discipline against a licensee or holder of a practice privilege, or grounds for denial of a license or practice privilege under this code. The provisions of the Administrative Procedure Act, including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply to this section. Any person whose authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 has been revoked may apply for reinstatement of the authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (b) of Section 5054, or Section 5096.12 not less than one year after the effective date of the board's decision revoking the authorization to practice unless a longer time, not to exceed three years, is specified in the board's decision revoking the authorization to practice.

(b) The board may administratively suspend the authorization of any person to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be grounds for administrative suspension under Section 5096.4 utilizing the procedures set forth in that section.

SEC. 19. Section 6002.1 of the Business and Professions Code is amended to read:

6002.1. (a) A member of the State Bar shall maintain all of the following on the official membership records of the State Bar:

(1) The member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.

(2) All specialties in which the member is certified.

(3) Any other jurisdictions in which the member is admitted and the dates of his or her admission.

(4) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction.

(5) Any other information as may be required by agreement with or by conditions of probation imposed by the agency charged with attorney discipline.

A member shall notify the membership records office of the State Bar of any change in the information required by paragraphs (1), (4), and (5) within 30 days of the change and of any change in the information required by paragraphs (2) and (3) on or before the first day of February of each year.

(b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 9.20 of the California Rules of Court shall maintain on the official membership records of the State Bar the former member's current address and, within 10 days after any change therein, shall file a change of address with the membership records office of the State Bar until the former member is no longer subject to the order.

(c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive

service of any notice or papers in any proceeding conducted under this chapter.

(d) The State Bar shall not make available to the general public the information specified in paragraph (5) of subdivision (a) unless that information is required to be made available by a condition of probation. That information is, however, available to the State Bar, the Supreme Court, or the agency charged with attorney discipline.

(e) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

SEC. 20. Section 6061 of the Business and Professions Code is amended to read:

6061. Any law school that is not accredited by the examining committee of the State Bar shall provide every student with a disclosure statement, subsequent to the payment of any application fee but prior to the payment of any registration fee, containing all of the following information:

(a) The school is not accredited. However, in addition, if the school has been approved by other agencies, that fact may be so stated.

(b) Where the school has not been in operation for 10 years, the assets and liabilities of the school. However, if the school has had prior affiliation with another school that has been in operation more than 10 years, has been under the control of another school that has been in operation more than 10 years, or has been a successor to a school in operation more than 10 years, this subdivision is not applicable.

(c) The number and percentage of students who have taken and who have passed the first-year law student's examination and the final bar examination in the previous five years, or since the establishment of the school, whichever time is less, which shall include only those students who have been certified by the school to take the examinations.

(d) The number of legal volumes in the library. This subdivision does not apply to correspondence schools.

(e) The educational background, qualifications, and experience of the faculty, and whether or not the faculty members and administrators (e.g., the dean) are members of the California State Bar.

(f) The ratio of faculty to students for the previous five years or since the establishment of the school, whichever time is less.

(g) Whether or not the school has applied for accreditation, and, if so, the date of application and whether or not that application has been withdrawn, is currently pending, or has been finally denied. The school need only disclose information relating to applications made in the previous five years.

(h) That the education provided by the school may not satisfy the requirements of other states for the practice of law. Applicants should inquire regarding those requirements, if any, to the state in which they may wish to practice.

The disclosure statement required by this section shall be signed by each student, who shall receive as a receipt a copy of his or her signed disclosure statement. If any school does not comply with these requirements, it shall make a full refund of all fees paid by students.

Subject to approval by the board, the examining committee may adopt reasonable rules and regulations as are necessary for the purpose of ensuring compliance with this section.

SEC. 21. Section 6071 of the Business and Professions Code is amended to read:

6071. (a) The State Bar shall request the California Supreme Court to amend Rule 9.31 of the California Rules of Court, relating to the mandatory continuing education program, to provide that one hour of the mandatory eight hours of legal education activities in legal ethics or law practice management, instead, may be satisfied by one hour of legal education activity in the civil and criminal remedies available for civil rights violations.

(b) This section shall not affect the requirement that all active members of the State Bar complete at least four hours of legal education activity in ethics within designated 36-month periods.

SEC. 22. Section 6079.1 of the Business and Professions Code is amended to read:

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet any other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 9.11 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid 91.3225 percent of the salary of a superior court judge. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) or to monitor the probation of a member of the State Bar, whether those appointed

under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

SEC. 23. Section 6086.65 of the Business and Professions Code is amended to read:

6086.65. (a) There is a Review Department of the State Bar Court, that consists of the Presiding Judge of the State Bar Court and two Review Department judges appointed by the Supreme Court. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the presiding judge by subdivision (d) of Section 6079.1. However, the two Review Department judges may be appointed to, and paid as, positions occupying one-half the time and pay of the presiding judge. Candidates shall be rated and screened pursuant to Rule 9.11 of the California Rules of Court or as otherwise directed by the Supreme Court.

(b) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(c) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The standard to be applied by the Review Department in reviewing a decision, order, or ruling by a hearing judge fully disposing of a proceeding is established in Rule 9.12 of the California Rules of Court, or as otherwise directed by the Supreme Court.

SEC. 24. Section 6126 of the Business and Professions Code is amended to read:

6126. (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars ($1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction

under this subdivision, the court shall state the reasons for its sentencing choice on the record.

(b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter practices or attempts to practice law, advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail.

(c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 9.20 of the California Rules of Court, constitutes a crime punishable by imprisonment in the state prison or a county jail.

(d) The penalties provided in this section are cumulative to each other and to any other remedies or penalties provided by law.

SEC. 25. Section 6145 of the Business and Professions Code is amended to read:

6145. (a) The board shall engage the services of an independent national or regional public accounting firm with at least five years of experience in governmental auditing for an audit of its financial statement for each fiscal year. The financial statement shall be promptly certified under oath by the Treasurer of the State Bar, and a copy of the audit and financial statement shall be submitted within 120 days of the close of the fiscal year to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

The audit shall examine the receipts and expenditures of the State Bar and the State Bar sections to ensure that the receipts of the sections are being applied, and their expenditures are being made, in compliance with subdivision (a) of Section 6031.5, and that the receipts of the sections are applied only to the work of the sections.

The audit also shall examine the receipts and expenditures of the State Bar to ensure that the funds collected on behalf of the Conference of Delegates of California Bar Associations as the independent successor entity to the former Conference of Delegates of the State Bar are conveyed to that entity, that the State Bar has been paid or reimbursed for the full cost of any administrative and support services provided to

the successor entity, including the collection of fees or donations on its behalf, and that no mandatory dues are being used to fund the activities of the successor entity.

In selecting the accounting firm, the board shall consider the value of continuity, along with the risk that continued long-term engagements of an accounting firm may affect the independence of that firm.

(b) The board shall contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations from July 1, 2000, to December 31, 2000, inclusive. A copy of the performance audit shall be submitted by May 1, 2001, to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

Every two years thereafter, the board shall contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations for the respective fiscal year, commencing with January 1, 2002, to December 31, 2002, inclusive. A copy of the performance audit shall be submitted within 120 days of the close of the fiscal year for which the audit was performed to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

For the purposes of this subdivision, the Bureau of State Audits may contract with a third party to conduct the performance audit. This subdivision is not intended to reduce the number of audits the Bureau of State Audits may otherwise be able to conduct.

SEC. 26. Section 6321 of the Business and Professions Code is amended to read:

6321. (a) On and after January 1, 2006, as described in Section 68085.1 of the Government Code, the Administrative Office of the Courts shall make monthly distributions from superior court filing fees to the law library fund in each county in the amounts described in this section and Section 6322.1. From each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670 of the Government Code, each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658 of the Government Code, Section 103470 of the Health and Safety Code, or Section 7660 of the Probate Code, each filing fee for a small claims or limited civil case appeal as provided under Section 116.760 of the Code of Civil Procedure or Section 70621 of the Government Code, and each vehicle forfeiture petition fee as provided under subdivision (e) of Section 14607.6 of the Vehicle Code, that is collected

in each of the following counties, the amount indicated in this subdivision shall be paid to the law library fund in that county:

Jurisdiction	Amount
Alameda	$31.00
Alpine	4.00
Amador	20.00
Butte	29.00
Calaveras	26.00
Colusa	17.00
Contra Costa	29.00
Del Norte	20.00
El Dorado	26.00
Fresno	31.00
Glenn	20.00
Humboldt	40.00
Imperial	20.00
Inyo	20.00
Kern	21.00
Kings	23.00
Lake	23.00
Lassen	25.00
Los Angeles	18.00
Madera	26.00
Marin	32.00
Mariposa	27.00
Mendocino	26.00
Merced	23.00
Modoc	20.00
Mono	20.00
Monterey	25.00
Napa	20.00
Nevada	23.00
Orange	29.00
Placer	29.00
Plumas	20.00
Riverside	26.00
Sacramento	44.00
San Benito	20.00
San Bernardino	23.00
San Diego	35.00
San Francisco	36.00
San Joaquin	23.00

San Luis Obispo	31.00
San Mateo	32.50
Santa Barbara	35.00
Santa Clara	26.00
Santa Cruz	29.00
Shasta	20.00
Sierra	20.00
Siskiyou	26.00
Solano	26.00
Sonoma	29.00
Stanislaus	18.00
Sutter	7.00
Tehama	20.00
Trinity	20.00
Tulare	29.00
Tuolumne	20.00
Ventura	26.00
Yolo	29.00
Yuba	7.00

(b) If a board of supervisors in any county acted before January 1, 2006, to increase the law library fee in that county effective January 1, 2006, the amount distributed to the law library fund in that county under subdivision (a) shall be increased by the amount that the board of supervisors acted to increase the fee, up to three dollars ($3). Notwithstanding subdivision (b) of Section 6322.1, as it read on January 1, 2005, the maximum increase permitted under this subdivision in Los Angeles County is three dollars ($3), rather than two dollars ($2).

SEC. 27. Section 6501 of the Business and Professions Code is amended to read:

6501. As used in this chapter, the following terms have the following meanings:

(a) "Act" means this chapter.

(b) "Bureau" means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.

(c) "Client" means an individual who is served by a professional fiduciary.

(d) "Department" means the Department of Consumer Affairs.

(e) "Licensee" means a person who is licensed under this chapter as a professional fiduciary.

(f) "Professional fiduciary" means a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption,

marriage, or registered domestic partnership. "Professional fiduciary" also means a person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three people or more than three families, or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership. "Professional fiduciary" does not include any of the following:

(1) A trust company, as defined in Section 83 of the Probate Code.

(2) An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this paragraph, "affiliate" means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

(3) A person employed by an entity described in paragraph (1) or (2) who is acting in the course and scope of that employment.

(4) Any public officer or public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California, when that public officer or public agency is acting in the course and scope of official duties, or any regional center for persons with developmental disabilities, as defined in Section 4620 of the Welfare and Institutions Code.

(5) Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment adviser representative registered and regulated under the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), the Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.), or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(g) "Committee" means the Professional Fiduciaries Advisory Committee, as established pursuant to Section 6511.

SEC. 28. Section 7017.3 of the Business and Professions Code is amended to read:

7017.3. The Contractors' State License Board shall report annually to the Legislature, not later than October 1 of each year, the following statistical information for the prior fiscal year. The following data shall be reported on complaints filed with the board against licensed contractors, registered home improvement salespersons, and unlicensed persons acting as licensees or registrants:

(a) The number of complaints received by the board categorized by source, such as public, trade, profession, government agency, or board-initiated, and by type of complaint, such as licensee or nonlicensee.

(b) The number of complaints closed prior to referral for field investigation, categorized by the reason for the closure, such as settled, referred for mandatory arbitration, or referred for voluntary arbitration.

(c) The number of complaints referred for field investigation categorized by the type of complaint, such as licensee or nonlicensee.

(d) The number of complaints closed after referral for field investigation categorized by the reason for the closure, such as settled, referred for mandatory arbitration, or referred for voluntary arbitration.

(e) For the board's Intake/Mediation Center and the board's Investigation Center closures, respectively, the total number of complaints closed prior to a field investigation per consumer services representative, and the total number of complaints closed after referral for a field investigation per enforcement representative. Additionally, the board shall report the total number of complaints closed by other board staff during the year.

(f) The number of complaints pending at the end of the fiscal year grouped in 90-day increments, and the percentage of total complaints pending, represented by the number of complaints in each grouping.

(g) The number of citations issued to licensees categorized by the type of citation such as order of correction only or order of correction and fine, and the number of citations issued to licensees that were vacated or withdrawn.

(h) The number of citations issued to nonlicensees and the number of these citations that were vacated or withdrawn.

(i) The number of complaints referred to a local prosecutor for criminal investigation or prosecution, the number of complaints referred to the Attorney General for the filing of an accusation, and the number of complaints referred to both a local prosecutor and the Attorney General, categorized by type of complaint, such as licensee and nonlicensee.

(j) Actions taken by the board, including, but not limited to, the following:

(1) The number of disciplinary actions categorized by type, such as revocations or suspensions, categorized by whether the disciplinary action resulted from an accusation, failure to comply with a citation, or failure to comply with an arbitration award.

(2) The number of accusations dismissed or withdrawn.

(k) For subdivisions (g) and (j), the number of cases containing violations of Sections 7121 and 7121.5, and paragraph (5) of subdivision (a) of Section 7159.5, categorized by section.

(*l*) The number of interim suspension orders sought, the number of interim suspension orders granted, the number of temporary restraining orders sought, and the number of temporary restraining orders granted.

(m) The amount of cost recovery ordered and the amount collected.

(n) Case aging data, including data for each major stage of the enforcement process, including the following:

(1) The average number of days from the filing of a complaint to its closure by the board's Intake/Mediation Center prior to the referral for an investigation categorized by the type of complaint, such as licensee or nonlicensee.

(2) The average number of days from the referral of a complaint for an investigation to its closure by the Investigation Center categorized by the type of complaint, such as licensee or nonlicensee.

(3) The average number of days from the filing of a complaint to the referral of the completed investigation to the Attorney General.

(4) The average number of days from the referral of a completed investigation to the Attorney General to the filing of an accusation by the Attorney General.

(5) The average number of days from the filing of an accusation to the first hearing date or date of a stipulated settlement.

(6) The average number of days from the receipt of the Administrative Law Judge's proposed decision to the registrar's final decision.

SEC. 29. Section 7145.5 of the Business and Professions Code is amended to read:

7145.5. (a) The registrar may refuse to issue, reinstate, reactivate, or renew a license or may suspend a license for the failure of a licensee to resolve all outstanding final liabilities, which include taxes, additions to tax, penalties, interest, and any fees that may be assessed by the board, the Department of Industrial Relations, the Employment Development Department, or the Franchise Tax Board.

(1) Until the debts covered by this section are satisfied, the qualifying person and any other personnel of record named on a license that has been suspended under this section shall be prohibited from serving in any capacity that is subject to licensure under this chapter, but shall be permitted to act in the capacity of a nonsupervising bona fide employee.

(2) The license of any other renewable licensed entity with any of the same personnel of record that have been assessed an outstanding liability covered by this section shall be suspended until the debt has been satisfied or until the same personnel of record disassociate themselves from the renewable licensed entity.

(b) The refusal to issue a license or the suspension of a license as provided by this section shall be applicable only if the registrar has mailed a notice preliminary to the refusal or suspension that indicates that the license will be refused or suspended by a date certain. This preliminary notice shall be mailed to the licensee at least 60 days before the date certain.

(c) In the case of outstanding final liabilities assessed by the Franchise Tax Board, this section shall be operative within 60 days after the Contractors' State License Board has provided the Franchise Tax Board with the information required under Section 30, relating to licensing information that includes the federal employee identification number or social security number.

(d) All versions of the application for contractors' licenses shall include, as part of the application, an authorization by the applicant, in the form and manner mutually agreeable to the Franchise Tax Board and the board, for the Franchise Tax Board to disclose the tax information that is required for the registrar to administer this section. The Franchise Tax Board may from time to time audit these authorizations.

SEC. 30. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars ($500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, "home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and

materials to be furnished by the contractor, exceeds five hundred dollars ($500). "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy of the contract initiates the buyer's rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable "Notice of Cancellation" is to be mailed, immediately preceded by a statement advising the buyer that the "Notice of Cancellation" may be sent to the contractor at the address noted on the contract.

(4) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has

the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract, and any changes to the contract, shall be in writing and signed by the parties to the contract prior to the commencement of any work covered by the contract or applicable change order, and shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: "Home Improvement."

(4) The following statement in at least 12-point boldface type: "You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started."

(5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: "Downpayment."

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

"THE DOWNPAYMENT MAY NOT EXCEED $1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."

(9) If any payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following

form, and shall include the text of the statement as specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the heading: "Schedule of Progress Payments."

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and any materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

"The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT."

(10) The contract shall address the commencement of work to be performed in substantially the following form:

(A) A statement that describes what constitutes substantial commencement of work under the contract.

(B) The heading: "Approximate Start Date."

(C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

(A) The heading: "Approximate Completion Date."

(B) The approximate date of completion.

(12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.

(13) The heading: "Note about Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of any work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) All of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract

includes the following statement: "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at _____ to check the contractor's insurance coverage."

(C) "(The name on the license or 'This contractor') is self-insured."

(2) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is correct:

(A) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(B) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of any work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of any work covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading "Mechanics' Lien Warning" written as follows:

"MECHANICS' LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface: "Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (8).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) "Three-Day Right to Cancel

"You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or

if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(C) The "Three-Day Right to Cancel" notice required by this paragraph shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Three-Day Right to Cancel.'"

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

_____

(Date)

"You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to

return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to _____,
/name of seller/
at _____
/address of seller's place of business/
not later than midnight of _____.
(Date)
I hereby cancel this transaction. _____
(Date)
_____
(Buyer's signature)

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) The "Seven-Day Right to Cancel" notice required by this subdivision shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Seven-Day Right to Cancel.'"

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

_____

(Date)

"You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to _____, /name of seller/ at _____ /address of seller's place of business/ not later than midnight of _____. (Date)

I hereby cancel this transaction. _____ (Date)

_____ (Buyer's signature)

SEC. 31. Section 7159.9 of the Business and Professions Code is amended to read:

7159.9. (a) Section 7159 does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1 of the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the licensee does all of the following:

(1) Complies with the contract requirements set forth in Section 7599.54.

(2) Complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(3) Executes the following certification statement in the contract or in a separate certification document signed by all parties to the contract:

"All costs attributable to making the fire alarm system operable for the residence identified by this document, including sale and installation costs, do not exceed five hundred dollars ($500)."

(4) Certifies to the following if the certification statement described in paragraph (3) is in a separate document:

"I certify that all statements and representations made by me in this document are true and accurate."

(b) The contract or separate certification document shall also include both of the following:

(1) The physical address of the residence for which the certification is applicable.

(2) The name, business address, and license number of the contractor as contained in the official records of the board.

(c) The licensee shall give an exact copy of all documents required pursuant to this section to the party who is contracting to have the alarm system installed.

(d) All documents required pursuant to this section shall be retained by the licensee for a period of five years in accordance with the provisions of Section 7111, and shall be made available to the board within 30 days of a written request.

(e) Failure by the contractor to provide the board with the certification or contract within 30 days of a written request is cause for discipline.

(f) Failure by the licensee to provide the board with the certification or contract within 30 days of a written request creates a presumption that the licensee has violated the provisions of Section 7159, unless evidence to the contrary is presented within the timeframe specified by the board.

SEC. 32. Section 18711 of the Business and Professions Code is amended to read:

18711. (a) (1) (A) The commission shall require, as a condition of licensure and as a part of the application process, the examination by a licensed physician and surgeon who specializes in neurology and neurosurgery of each applicant for a license as a professional athlete or contestant licensed under this chapter or, if for the renewal of a license, this examination every year, in addition to any other medical examinations.

(i) Upon initial licensure, the examination shall include tests and examinations designed to detect physical conditions that could place the athlete or contestant at risk for serious injury or permanent or temporary impairment of any bodily function. These tests or examinations shall include, but not be limited to, a neurological examination or a neuro-psychological examination, a brain imaging scan, and an electrocardiogram (EKG). The physician may recommend any additional tests or evaluations he or she deems necessary.

(ii) For renewal of a license, the physician shall determine the tests or evaluations necessary, if any.

(iii) The commission may require an athlete or contestant licensed under this chapter to undergo additional neurological tests where, based on the totality of the athlete's or contestant's records, it appears the athlete or contestant may be at risk of cognitive impairment.

(iv) On the basis of a physical examination under this subdivision, and any additional tests that are conducted, the physician may recommend to the commission whether the applicant may be permitted to be licensed in California or not. The executive officer shall review these recommendations and report any denials of licensure. If, as a result of these recommendations, the executive officer refuses to grant the applicant a license or to renew a license, the applicant shall not compete in California until the denial has been overruled by the commission as provided in this chapter.

(v) The commission may waive the requirement for a brain imaging scan or an EKG if a brain imaging scan or EKG was completed as part of the licensing requirements in another state, the commission determines that this brain imaging scan or EKG creates a reliable baseline for the athlete or contestant, and the commission has been provided with a copy of the brain imaging scan or EKG reports.

(vi) This subparagraph shall become inoperative on the date the regulations adopted by the commission pursuant to subparagraph (B) become operative.

(B) On and after January 1, 2008, all professional athletes licensed under this chapter shall be required by the commission to complete a medical examination process, which shall include the completion of specific medical examinations, to be determined by the commission through regulations, as a condition of initial licensure and license renewal. This medical examination process may include examinations required under current law and any additional medical examinations determined to be medically necessary. In adopting the medical examination process, the commission shall consider the health and safety of contestants, the medical necessity of any examinations required, and the financial aspects of requiring those medical examinations.

(2) In the absence of any pertinent untoward medical event, the commission may, in its discretion, on forms prescribed by the commission, accept tests or evaluations that are equivalent to those described in paragraph (1) and that have been completed within one year of licensure to meet the requirements of this subdivision.

(3) (A) Any medical records obtained, reviewed, or created under this chapter shall be utilized only for purposes of administering this chapter. The commission and any physician may not disclose the athlete's medical records without a signed authorization from the athlete, except that the commission may disclose those records to other state licensing boards and commissions to which the athlete has applied for licensure or has an enforcement action pending, or upon court order in a criminal or civil action.

(B) After the adoption of regulations to establish a process for participating in medical research studies, the commission may use medical information for purposes of participating in medical research studies of the effects on the human body of contests and exhibitions regulated under this chapter. However, medical information shall not include any personal identifying information on any contestant, including, but not limited to, the contestant's name, address, telephone number, social security number, license number, federal identification number, or any other information identifying the contestant. The medical information shall only be provided if the licensed athlete has consented

in writing to participate in the research study. The regulations adopted by the commission shall include a process to ensure that no conflicts of interest arise regarding which medical examinations are required to be completed by contestants.

(b) If an applicant for licensure as a professional athlete under this chapter undergoes a neurological examination for purposes of licensure within the 120-day period immediately preceding the normal expiration of that license, the applicant shall not be required to undergo an additional neurological examination within the following 12 consecutive month license period unless the commission, for cause, orders that the examination be taken. The commission shall notify all commission-approved physicians and referees that the commission has the authority to order any professional athlete to undergo a neurological examination.

(c) The cost of the examinations required by this section shall be paid from assessments on any one or more of the following: promoters of professional matches, managers, and professional athletes or other contestants licensed under this chapter. The rate and manner of assessment shall be set by the commission, and may cover all costs associated with the requirements of this section. This assessment shall be imposed on all contests approved by the commission under this chapter. As of July 1, 1994, all moneys received by the commission pursuant to this section shall be deposited in and credited to the State Athletic Commission Neurological Examination Account which is hereby created in the General Fund.

(d) Whenever a reference is made to the Boxers' Neurological Examination Account, it is to be construed as referring to the State Athletic Commission Neurological Examination Account.

SEC. 33. Section 19601 of the Business and Professions Code is amended to read:

19601. (a) Notwithstanding any other provision of law, a licensed association or fair that is conducting a live meeting in any racing zone may accept wagers on any race conducted in this state, if all of the following requirements are met:

(1) The association or fair that conducts the racing meeting and the organization that is responsible for negotiating purse agreements on behalf of the horsemen participating in that racing meeting consent to the acceptance of the wagers. However, if consent is withheld, any party may appeal the withholding of consent to the board, which may determine that consent is not required.

(2) The association or fair conducts not fewer than eight races on days when the association or fair is licensed to conduct racing, except that fewer than eight live races per day may be conducted by the mutual

agreement of the association or fair and the organization that is responsible for negotiating purse agreements on behalf of the horsemen participating in the racing meeting.

(3) Wagering is offered only within the association's or fair's racing inclosure or within the satellite wagering facility and only within seven days of the commencement of the racing program with the transmitted race.

(4) All wagers are included in the appropriate parimutuel pool at the racetrack of the association or fair where the race is conducted, or, in the appropriate parimutuel pool of the racetrack of the association or fair that accepts the transmitted race.

(5) The association or fair accepting wagers on an out-of-zone transmitted race distributes the audiovisual signal of the race to, and accepts wagers from, all eligible satellite wagering facilities.

(b) Any association or fair accepting wagers under subdivision (a) shall deduct, from the total amount handled in each conventional and exotic parimutuel pool on the transmitted race, the same percentages deducted pursuant to Article 9.5 (commencing with Section 19610) for races at its own meeting. However, if the wagers are from a quarter horse race meeting, then the amounts deducted shall be the same as for a quarter horse race meeting. Amounts deducted under this section, including amounts deducted from wagers on out-of-zone races within the inclosure of the association or fair, shall be distributed as provided under Sections 19605.7, 19605.72, and 19605.73 with respect to wagers made within the northern zone, or Sections 19605.71, 19605.72, and 19605.73 with respect to wagers made within the central or southern zone, except that amounts distributed for purposes other than state license fees and fees payable to the Center for Equine Health, School of Veterinary Medicine, University of California at Davis, and the California Animal Health and Food Safety Laboratory shall be proportionally reduced by the amount of any fees paid to the Triple Crown or Breeder's Cup day host association pursuant to subdivision (c). The method used to calculate the reduction in proportionate share shall be approved by the board. For wagers on out-of-state and out-of-country races made within the association's or fair's inclosure, 1 percent shall be distributed to the association or fair as a satellite wagering facility commission.

(c) Nothing in this section precludes an association or fair from charging a fee as a condition of transmitting the Triple Crown or Breeder's Cup day races, except that any fee shall be allocated among all associations, fairs, and satellite wagering facilities receiving the transmitted race in proportion to the amount wagered at each location, and the fee shall equal that charged by the entity conducting the race or races. Further, the only fee that can be charged as a condition of

transmitting the signal of an out-of-zone race shall be a fee of 2.5 percent on Breeder's Cup day races.

(d) All breakage and unclaimed tickets, including unclaimed refunds, shall be distributed equally between the association or fair that accepts wagers on the transmitted race, and the horsemen, in the form of purses. The purse moneys generated by this subdivision shall be made available for purses during the meeting in which they are received by the association or fair, or, if the association or fair is not then conducting a live racing meeting, during the next succeeding meeting of the association or fair.

(e) All wagers made pursuant to this section shall be considered to have been wagered at a satellite wagering facility and shall be excluded from total handle for the purposes of Section 19611.

(f) Notwithstanding Section 19530.5, satellite wagering facilities operated by a fair, in the Counties of Fresno, Kern, or Tulare shall be considered northern zone facilities and shall receive their audiovisual signal from the association or fair conducting a racing meeting in the northern zone that is authorized to distribute the signal and accept wagers on central and southern zone races. Satellite wagering facilities operated by a fair, in the Counties of Santa Barbara or Ventura shall be considered central-southern zone facilities and shall receive the audiovisual signal from the association or fair conducting a racing meeting in the central or southern zone that is authorized to distribute the signal and accept wagers on northern zone races.

(g) All purse moneys derived from wagering on out-of-zone races at fair racing meetings shall be distributed to all breeds of horses participating in the fair meeting in direct proportion to the purse money generated by breed on live races conducted during the fair race meeting.

(h) During calendar periods when both a fair and a thoroughbred association conduct live racing, the amounts deducted under this section shall be distributed on any day of overlap as provided in Section 19607.5, except that the applicable state license fee shall be at the rate specified for nonfair meetings in subdivision (b) of Section 19605.7.

(i) During calendar periods when a thoroughbred association and a fair, or a thoroughbred association and any other breed association, are conducting a racing meeting in the same zone, the thoroughbred association shall be the association authorized to distribute out-of-zone, out-of-state, or out-of-country thoroughbred or fair races, except that the thoroughbred association may waive this right and allow the other breed racing association conducting a race meeting to distribute the signal and accept wagers on out-of-zone, out-of-state, or out-of-country thoroughbred or fair races for any racing day or days. For the purposes

of this subdivision, the combined central and southern zone shall be considered one zone.

(j) In order to ensure, to the extent possible, that out-of-state and out-of-country simulcasting furthers the purposes of this section, a committee made up of one representative from each of the then-operating thoroughbred associations or fairs that are conducting a live racing meeting in the state and one representative of the organization responsible for negotiating purse agreements on behalf of the horsemen participating in the meeting shall do the following:

(1) Determine the out-of-state or out-of-country thoroughbred races to be imported on a statewide basis pursuant to this chapter.

(2) Ensure, to the extent possible, that the fees charged by out-of-state or out-of-country entities for these signals are at the lowest obtainable rate and at the same rate statewide, in order to maximize the revenue available to in-state associations and fairs and their horsemen.

(3) Ensure, to the extent possible, due to the reciprocal nature of the interstate simulcasting business, that the maximum obtainable revenue is generated by the sale to out-of-state entities of the audiovisual signal of races conducted in this state by thoroughbred associations and fairs.

(4) Ensure that program information requirements for in-state signals comply with the standards of the board, but provide that abbreviated program formats may be used for races imported from other jurisdictions.

(k) Notwithstanding any other provision of law, any thoroughbred association or fair, when operating a live racing meeting, shall distribute the signal of all races conducted by, or disseminated by, that association or fair to, and accept wagers on these races from, any association that is licensed to conduct a live quarter horse or harness racing meeting in Orange County and that conducted such a meeting in 1998.

(*l*) Notwithstanding any other provision of law, all associations or fairs when operating as eligible satellite wagering facilities shall be in compliance with, and subject to, Article 9.2 (commencing with Section 19605), and shall display the signal and accept wagers on all live races conducted in this state without regard to breed. Notwithstanding the foregoing provision, a thoroughbred racing association located in the City of Arcadia is exempt from these requirements for live harness and quarter horse races conducted at night unless the thoroughbred racing association facility is open for business at that time and is accepting wagers on other night signals pursuant to this chapter.

A quarter horse racing association located in the southern zone shall display the signal and accept wagers on all races imported by, or conducted by, a harness racing association conducting racing in the northern zone. A harness racing association in the northern zone shall display the signal and accept wagers on all races imported by, or

conducted by, a quarter horse racing association conducting racing in the southern zone. On those nights when both the harness racing association in the northern zone and the quarter horse racing association in the southern zone are conducting live racing, the audiovisual signal of both breeds shall be displayed and wagers shall be accepted on both breeds at each of the locations where the live racing is being conducted, and each association shall display the audiovisual signal and accept wagers on the other association's live or imported races throughout their respective facilities, as they do when they are conducting satellite wagering during other periods of the same day. Each association shall pay the other an additional 5 percent of the amount wagered at their respective facilities on the races imported by, or conducted by, the other racing association. With respect to harness racing, the additional 5 percent received by the harness racing association pursuant to this subdivision shall be distributed as 50 percent as commissions to the racing association and 50 percent as purses to the horsemen participating in the racing meeting. Further, satellite wagering facilities located at fairs may, but are not required to, accept an audiovisual signal on out-of-state or out-of-country races unless the facility is open for business at the time and accepting wagers on other signals pursuant to this chapter.

SEC. 34. Section 1788.18 of the Civil Code is amended to read:

1788.18. (a) Upon receipt from a debtor of all of the following, a debt collector shall cease collection activities until completion of the review provided in subdivision (d):

(1) A copy of a police report filed by the debtor alleging that the debtor is the victim of an identity theft crime, including, but not limited to, a violation of Section 530.5 of the Penal Code, for the specific debt being collected by the debt collector.

(2) The debtor's written statement that the debtor claims to be the victim of identity theft with respect to the specific debt being collected by the debt collector.

(b) The written statement described in paragraph (2) of subdivision (a) shall consist of any of the following:

(1) A Federal Trade Commission's Affidavit of Identity Theft.

(2) A written statement that contains the content of the Identity Theft Victim's Fraudulent Account Information Request offered to the public by the California Office of Privacy Protection.

(3) A written statement that certifies that the representations are true, correct, and contain no material omissions of fact to the best knowledge and belief of the person submitting the certification. A person submitting the certification who declares as true any material matter pursuant to this subdivision that he or she knows to be false is guilty of a misdemeanor. The statement shall contain or be accompanied by the

following, to the extent that an item listed below is relevant to the debtor's allegation of identity theft with respect to the debt in question:

(A) A statement that the debtor is a victim of identity theft.

(B) A copy of the debtor's driver's license or identification card, as issued by the state.

(C) Any other identification document that supports the statement of identity theft.

(D) Specific facts supporting the claim of identity theft, if available.

(E) Any explanation showing that the debtor did not incur the debt.

(F) Any available correspondence disputing the debt after transaction information has been provided to the debtor.

(G) Documentation of the residence of the debtor at the time of the alleged debt. This may include copies of bills and statements, such as utility bills, tax statements, or other statements from businesses sent to the debtor, showing that the debtor lived at another residence at the time the debt was incurred.

(H) A telephone number for contacting the debtor concerning any additional information or questions, or direction that further communications to the debtor be in writing only, with the mailing address specified in the statement.

(I) To the extent the debtor has information concerning who may have incurred the debt, the identification of any person whom the debtor believes is responsible.

(J) An express statement that the debtor did not authorize the use of the debtor's name or personal information for incurring the debt.

(K) The certification required pursuant to this paragraph shall be sufficient if it is in substantially the following form:

"I certify the representations made are true, correct, and contain no material omissions of fact.

_____ _____"

(Date and Place) (Signature)

(c) If a debtor notifies a debt collector orally that he or she is a victim of identity theft, the debt collector shall notify the debtor, orally or in writing, that the debtor's claim must be in writing. If a debtor notifies a debt collector in writing that he or she is a victim of identity theft, but omits information required pursuant to subdivision (a) or, if applicable, the certification required pursuant to paragraph (3) of subdivision (b), if the debt collector does not cease collection activities, the debt collector shall provide written notice to the debtor of the additional information that is required, or the certification required pursuant to paragraph (3)

of subdivision (b), as applicable, or send the debtor a copy of the Federal Trade Commission's Affidavit of Identity Theft form.

(d) Upon receipt of the complete statement and information described in subdivision (a), the debt collector shall review and consider all of the information provided by the debtor and other information available to the debt collector in its file or from the creditor. The debt collector may recommence debt collection activities only upon making a good faith determination that the information does not establish that the debtor is not responsible for the specific debt in question. The debt collector's determination shall be made in a manner consistent with the provisions of subsection (1) of Section 1692 of Title 15 of the United States Code, as incorporated by Section 1788.17 of this code. The debt collector shall notify the debtor in writing of that determination and the basis for that determination before proceeding with any further collection activities. The debt collector's determination shall be based on all of the information provided by the debtor and other information available to the debt collector in its file or from the creditor.

(e) No inference or presumption that the debt is valid or invalid, or that the debtor is liable or not liable for the debt, shall arise if the debt collector decides after the review described in subdivision (d) to cease or recommence the debt collection activities. The exercise or nonexercise of rights under this section is not a waiver of any other right or defense of the debtor or debt collector.

(f) The statement and supporting documents that comply with subdivision (a) may also satisfy, to the extent those documents meet the requirements of, the notice requirement of paragraph (5) of subdivision (c) of Section 1798.93.

(g) A debt collector who ceases collection activities under this section and does not recommence those collection activities shall do all of the following:

(1) If the debt collector has furnished adverse information to a consumer credit reporting agency, notify the agency to delete that information.

(2) Notify the creditor that debt collection activities have been terminated based upon the debtor's claim of identity theft.

(h) A debt collector who has possession of documents that the debtor is entitled to request from a creditor pursuant to Section 530.8 of the Penal Code is authorized to provide those documents to the debtor.

(i) Notwithstanding subdivision (h) of Section 1788.2, for the purposes of this section, "debtor" means a natural person, firm, association, organization, partnership, business trust, company, corporation, or limited liability company from which a debt collector seeks to collect a debt that is due and owing or alleged to be due and owing from the person or

entity. The remedies provided by this title shall apply equally to violations of this section.

SEC. 35. Section 340.7 of the Code of Civil Procedure is amended to read:

340.7. Notwithstanding Section 335.1, any civil action brought by, or on behalf of, any Dalkon Shield victim against the Dalkon Shield Claimants' Trust, shall be brought in accordance with the procedures established by A.H. Robins Company, Inc. Plan of Reorganization, and shall be brought within 15 years of the date on which the victim's injury occurred, except that the statute shall be tolled from August 21, 1985, the date on which the A.H. Robins Company filed for Chapter 11 Reorganization in Richmond, Virginia.

This section applies regardless of when any such action or claim shall have accrued or been filed and regardless of whether it might have lapsed or otherwise be barred by time under California law. However, this section shall only apply to victims who, prior to January 1, 1990, filed a civil action, a timely claim, or a claim which is declared to be timely under the sixth Amended and Restated Disclosure Statement filed pursuant to Section 1125 of the Federal Bankruptcy Code in re: A.H. Robins Company Inc., dated March 28, 1988, U.S. Bankruptcy Court, Eastern District of Virginia (Case number 85-01307-R).

SEC. 36. Section 1245.245 of the Code of Civil Procedure is amended to read:

1245.245. (a) Property acquired by a public entity by any means set forth in subdivision (e) that is subject to a resolution of necessity adopted pursuant to this article shall only be used for the public use stated in the resolution unless the governing body of the public entity adopts a resolution authorizing a different use of the property by a vote of at least two-thirds of all members of the governing body of the public entity, or a greater vote as required by statute, charter, or ordinance. The resolution shall contain all of the following:

(1) A general statement of the new public use that is proposed for the property and a reference to the statute that would have authorized the public entity to acquire the property by eminent domain for that use.

(2) A description of the general location and extent of the property proposed to be used for the new use, with sufficient detail for reasonable identification.

(3) A declaration that the governing body has found and determined each of the following:

(A) The public interest and necessity require the proposed use.

(B) The proposed use is planned and located in the manner that will be most compatible with the greatest public good and least private injury.

(C) The property described in the resolution is necessary for the proposed use.

(b) Property acquired by a public entity by any means set forth in subdivision (e) that is subject to a resolution of necessity pursuant to this article, and is not used for the public use stated in the resolution of necessity within 10 years of the adoption of the resolution of necessity, shall be sold in accordance with the terms of subdivisions (f) and (g), unless the governing body adopts a resolution according to the terms of subdivision (a) or a resolution according to the terms of this subdivision reauthorizing the existing stated public use of the property by a vote of at least two-thirds of all members of the governing body of the public entity or a greater vote as required by statute, charter, or ordinance. A reauthorization resolution under this subdivision shall contain all of the following:

(1) A general statement of the public use that is proposed to be reauthorized for the property and a reference to the statute that authorized the public entity to acquire the property by eminent domain for that use.

(2) A description of the general location and extent of the property proposed to be used for the public use, but not yet in use for the public use, with sufficient detail for reasonable identification.

(3) A declaration that the governing body has found and determined each of the following:

(A) The public interest and necessity require the proposed use.

(B) The proposed use is planned and located in the manner that will be most compatible with the greatest public good and least private injury.

(C) The property described in the resolution is necessary for the proposed use.

(c) In addition to any notice required by law, the notice required for a new or reauthorization resolution sought pursuant to subdivision (a) or (b) shall comply with Section 1245.235 and shall be sent to each person who was given notice required by Section 1245.235 in connection with the original acquisition of the property by the public entity.

(d) Judicial review of an action pursuant to subdivision (a) or (b) may be obtained by a person who had an interest in the property described in the resolution at the time that the property was acquired by the public entity, and shall be governed by Section 1085.

(e) The following property acquisitions are subject to the requirements of this section:

(1) Any acquisition by a public entity pursuant to eminent domain.

(2) Any acquisition by a public entity following adoption of a resolution of necessity pursuant to this article for the property.

(3) Any acquisition by a public entity prior to the adoption of a resolution of necessity pursuant to this article for the property, but

subsequent to a written notice that the public entity may take the property by eminent domain.

(f) If the public entity fails to adopt either a new resolution pursuant to subdivision (a) or a reauthorization resolution pursuant to subdivision (b), as required by this section, and that property was not used for the public use stated in a resolution of necessity adopted pursuant to this article or a resolution adopted pursuant to subdivision (a) or (b) between the time of its acquisition and the time of the public entity's failure to adopt a resolution pursuant to subdivision (a) or (b), the public entity shall offer the person or persons from whom the property was acquired the right of first refusal to purchase the property pursuant to this section, as follows:

(1) At the present market value, as determined by independent licensed appraisers.

(2) For property that was a single-family residence at the time of acquisition, at an affordable price, which price shall not be greater than the price paid by the agency for the original acquisition, adjusted for inflation, and shall not be greater than fair market value, if the following requirements are met:

(A) The person or persons from whom the property was acquired certify their income to the public entity as persons or families of low or moderate income.

(B) If the single-family residence is offered at a price that is less than fair market value, the public entity may verify the certifications of income in accordance with procedures used for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency.

(C) If the single-family residence is offered at a price that is less than fair market value, the public entity shall impose terms, conditions, and restrictions to ensure that the residence will either:

(i) Remain owner-occupied by the person or persons from whom the property was acquired for at least five years.

(ii) Remain available to persons or families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income for the longest feasible time, but for not less than 55 years for rental units and 45 years for home ownership units.

(D) The Department of Housing and Community Development shall provide to the public entity recommendations of standards and criteria for those prices, terms, conditions, and restrictions.

(g) If after a diligent effort the public entity is unable to locate the person from whom the property was acquired, if the person from whom the property was acquired does not choose to purchase the property as

provided in subdivision (f), or if the public entity fails to adopt a resolution as required pursuant to subdivision (a) or (b) but is not required to offer a right of first refusal pursuant to subdivision (f), the public entity shall sell the property as surplus property pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

(h) If residential property acquired by a public entity by any means set forth in subdivision (e) is sold as surplus property pursuant to subdivision (g), and that property was not used for the public use stated in a resolution of necessity adopted pursuant to this article or a resolution adopted pursuant to subdivision (a) or (b) between the time of its acquisition and the time of its sale as surplus property, the public entity shall pay to the person or persons from whom the public entity acquired the property the sum of any financial gain between the original acquisition price, adjusted for inflation, and the final sale price.

(i) Upon completion of any acquisition described in subdivision (e) or upon the adoption of a resolution of necessity pursuant to this section, whichever is later, the public entity shall give written notice to the person or persons from whom the property was acquired as described in subdivision (e) stating that the notice, right of first refusal, and return of financial gain rights discussed in this section may accrue.

(j) At least 60 days before selling the property pursuant to subdivision (g), the public entity shall make a diligent effort to locate the person from whom the property was acquired. At any time before the proposed sale, the person from whom the property was acquired may exercise the rights provided by this section. As used in this section, "diligent effort" means that the public entity has done all of the following:

(1) Mailed the notice of the proposed sale by certified mail, return receipt requested, to the last known address of the person from whom the property was acquired.

(2) Mailed the notice of the proposed sale by certified mail, return receipt requested, to each person with the same name as the person from whom the property was acquired at any other address on the last equalized assessment roll.

(3) Published the notice of the proposed sale pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the city or county in which the property is located.

(4) Posted the notice of the proposed sale in at least three public places within the city or county in which the property is located.

(5) Posted the notice of the proposed sale on the property proposed to be sold.

(k) For purposes of this section, "adjusted for inflation" means the original acquisition price increased to reflect the proportional increase

in the Consumer Price Index for all items for the State of California, as determined by the United States Bureau of Labor Statistics, for the period from the date of acquisition to the date the property is offered for sale.

SEC. 37. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b) and (e), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than six nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.

A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to

the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(c) A proceeding for a change of name for a witness participating in the state Witness Protection Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days prior to the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 38. The heading of Title 9.3 (commencing with Section 1298) of Part 3 of the Code of Civil Procedure, as added by Section 1 of Chapter 881 of the Statutes of 1988, is amended and renumbered to read:

TITLE 9.4. REAL ESTATE CONTRACT ARBITRATION

SEC. 39. Section 1157 of the Corporations Code is amended to read:

1157. (a) An other business entity or a foreign other business entity or a foreign corporation may be converted into a corporation pursuant to this chapter only if the converting entity is authorized by the laws under which it is organized to effect the conversion.

(b) An other business entity or a foreign other business entity or a foreign corporation that desires to convert into a corporation shall approve a plan of conversion or other instrument as is required to be approved to effect the conversion pursuant to the laws under which that entity is organized.

(c) The conversion of an other business entity or a foreign other business entity or a foreign corporation shall be approved by the number or percentage of the partners, members, shareholders, or other holders of interest of the converting entity that is required by the laws under which that entity is organized, or a greater or lesser percentage as may be set forth in the converting entity's partnership agreement, articles of organization, operating agreement, articles of incorporation, or other governing document in accordance with applicable laws.

(d) The conversion by an other business entity or a foreign other business entity or a foreign corporation shall be effective under this chapter upon the filing with the Secretary of State of the articles of incorporation of the converted corporation, containing a statement of conversion that complies with subdivision (e).

(e) A statement of conversion of an entity converting into a corporation pursuant to this chapter shall set forth all of the following:

(1) The name, form, and jurisdiction of organization of the converting entity.

(2) The Secretary of State's file number, if any, of the converting entity.

(3) If the converting entity is a foreign other business entity or a foreign corporation, the statement of conversion shall contain the following:

(A) A statement that the converting entity is authorized to effect the conversion by the laws under which it is organized.

(B) A statement that the converting entity has approved a plan of conversion or other instrument as is required to be approved to effect the conversion pursuant to the laws under which the converting entity is organized.

(C) A statement that the conversion has been approved by the number or percentage of the partners, members, shareholders, or other holders of interest of the converting entity that is required by the laws under which that entity is organized, or a greater or lesser percentage as may be set forth in the converting entity's partnership agreement, articles of organization, operating agreement, articles of incorporation, or other governing document in accordance with applicable laws.

(f) The filing with the Secretary of State of articles of incorporation containing a statement pursuant to subdivision (e) shall have the effect of the filing of a certificate of cancellation by a converting foreign limited liability company or foreign limited partnership, and no converting foreign limited liability company or foreign limited partnership that has made the filing is required to file a certificate of cancellation under Section 15696, 15909.07, or 17455 as a result of that conversion. If a converting entity is a foreign corporation qualified to transact business in this state, the foreign corporation shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

SEC. 40. Section 15901.02 of the Corporations Code is amended to read:

15901.02. In this chapter, the following terms have the following meanings:

(a) "Acknowledged" means that an instrument is either of the following:

(1) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Executed to include substantially the following wording preceding the signature: "It is hereby declared that I am the person who executed this instrument, which execution is my act and deed. Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated."

(b) "Certificate of limited partnership" means the certificate required by Section 15902.01. The term includes the certificate as amended or restated.

(c) "Contribution," except in the phrase "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

(d) "Debtor in bankruptcy" means a person that is the subject of either of the following:

(1) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application.

(2) A comparable order under federal, state, or foreign law governing insolvency.

(e) "Designated office" means either of the following:

(1) With respect to a limited partnership, the office that the limited partnership is required to designate and maintain under Section 15901.14.

(2) With respect to a foreign limited partnership, its principal office.

(f) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(g) "Domestic corporation" means a corporation formed under the laws of this state.

(h) "Electronic transmission by the partnership" means a communication that meets both of the following requirements:

(1) It is delivered by any of the following means:

(A) Facsimile transmission or electronic mail when directed to the facsimile number or electronic mail address, respectively, for the recipient on the record with the partnership.

(B) Posting on an electronic message board or other electronic database, that the partnership has designated for the communication, together with a separate notice to the recipient of the posting, which shall be validly delivered upon the later of either the posting or delivery of the separate notice thereof.

(C) Other means of electronic communication.

(2) It is to a recipient that has provided an unrevoked consent to the use of the means of transmission used by the partnership in the electronic transmission.

(i) "Electronic transmission to the partnership" means a communication that meets both of the following requirements:

(1) It is delivered by any of the following means:

(A) Facsimile communication or other electronic mail when directed to the facsimile number or electronic mail address, respectively, that the partnership has provided from time to time to the partners for sending communications to the partnership.

(B) Posting on an electronic message board or electronic database that the partnership has designated for the communication. A transmission shall have been validly delivered upon the posting.

(C) Other means of electronic communication.

(2) It is a communication as to which the partnership has placed in effect reasonable measures to verify that the sender is the partner purporting to send the transmission, either in person or by proxy.

(j) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership.

(k) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

(*l*) "Foreign other business entity" means an other business entity formed under the laws of any state other than this state or under the laws of a foreign country.

(m) "General partner" means:

(1) With respect to a limited partnership, a person to whom either of the following applies:

(A) The person becomes a general partner under Section 15904.01.

(B) The person was a general partner in a limited partnership when the limited partnership became subject to this chapter under subdivision (a) or (b) of Section 15912.06.

(2) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(n) "Interests of all partners" means the aggregate interests of all partners in the current profits derived from business operations of the partnership.

(o) "Interests of limited partners" means the aggregate interests of all limited partners in their respective capacities as limited partners in the current profits derived from business operations of the partnership.

(p) "Limited partner" means:

(1) With respect to a limited partnership, a person to whom either of the following applies:

(A) The person becomes a limited partner under Section 15903.01 or subdivision (h) of 15907.02.

(B) The person was a limited partner in a limited partnership when the limited partnership became subject to this chapter under subdivision (a) or (b) of Section 15912.06.

(2) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(q) "Limited partnership or domestic limited partnership," except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons or becomes subject to this chapter under Article 11 (commencing with Section 15911.01) or subdivisions (a) or (b) of Section 15912.06.

(r) "Mail" means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(s) "Majority in interest of all partners" means more than 50 percent of the interests of all partners.

(t) "Majority in interest of the limited partners" means more than 50 percent of the interests of limited partners.

(u) "Other business entity" means a corporation, general partnership, limited liability company, business trust, real estate investment trust, or an unincorporated association other than a nonprofit association, but excludes a limited partnership.

(v) "Parent" of a limited partnership means any of the following:

(1) A general partner of the limited partnership.

(2) A person possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of a general partner of the limited partnership.

(3) A person owning, directly or indirectly, limited partnership interests possessing more than 50 percent of the aggregate voting power of the limited partnership.

(w) "Partner" means a limited partner or general partner.

(x) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

(y) "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

(z) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(aa) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(ab) "Proxy" means a written authorization signed by a partner or the partner's attorney in fact giving another person the power to vote with respect to the interest of that partner. "Signed," for the purpose of this

subdivision, means the placing of the partner's name on the proxy, whether by manual signature, typewriting, telegraphic transmission, or otherwise, by the partner or the partner's attorney in fact.

(ac) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(ad) "Required information" means the information that a limited partnership is required to maintain under Section 15901.11.

(ae) "Return of capital" means any distribution to a partner to the extent that the aggregate distributions to that partner do not exceed that partner's contributions to the partnership.

(af) "Sign" means either of the following:

(1) To execute or adopt a tangible symbol with the present intent to authenticate a record.

(2) To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.

(ag) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(ah) "Time a notice is given or sent," unless otherwise expressly provided, means any of the following:

(1) The time a written notice to a partner or the limited partnership is deposited in the United States mail.

(2) The time any other written notice is personally delivered to the recipient, is delivered to a common carrier for transmission, or is actually transmitted by the person giving the notice by electronic means to the recipient.

(3) The time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

(ai) (1) "Transact intrastate business" means, for purposes of registration, entering into repeated and successive transactions of business in this state, other than interstate or foreign commerce.

(2) A foreign limited partnership shall not be considered to be transacting intrastate business within the meaning of paragraph (1) solely because of its status as one or more of the following:

(A) A shareholder of a foreign corporation transacting intrastate business.

(B) A shareholder of a domestic corporation.

(C) A limited partner of a foreign limited partnership transacting intrastate business.

(D) A limited partner of a domestic limited partnership.

(E) A member or manager of a foreign limited liability company transacting intrastate business.

(F) A member or manager of a domestic limited liability company.

(3) Without excluding other activities that may not constitute transacting intrastate business, a foreign limited partnership shall not be considered to be transacting intrastate business within the meaning of paragraph (1) solely by reason of carrying on in this state one or more of the following activities:

(A) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims and disputes.

(B) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(C) Maintaining bank accounts.

(D) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or depositories with relation to its securities.

(E) Effecting sales through independent contractors.

(F) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance without this state before becoming binding contracts.

(G) Creating or acquiring evidences of debt or mortgages, liens, or security interests on real or personal property.

(H) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(I) Conducting an isolated transaction completed within a period of 180 days and not in the course of a number of repeated transactions of like nature.

(J) Transacting business in interstate commerce.

(4) A person shall not be deemed to be transacting intrastate business in this state within the meaning of paragraph (1) solely because of the person's status as a limited partner of a domestic limited partnership or a foreign limited partnership registered to transact intrastate business in this state.

This definition shall not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, jurisdiction, or other regulation under any other law of this state.

(aj) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, creation of a security interest or encumbrance, gift, and transfer by operation of law.

(ak) "Transferable interest" means a partner's right to receive distributions.

(al) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

SEC. 41. Section 15901.10 of the Corporations Code is amended to read:

15901.10. (a) Except as otherwise provided in subdivision (b), the partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(b) A partnership agreement may not do any of the following:

(1) Vary a limited partnership's power under Section 15901.05 to sue, be sued, and defend in its own name.

(2) Vary the law applicable to a limited partnership under Section 15901.06.

(3) Vary the requirements of Section 15902.04.

(4) Vary the information required under Section 15901.11 or unreasonably restrict the right to information under Section 15903.04 or 15904.07, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

(5) Eliminate the duty of loyalty under Section 15904.08, but the partnership agreement may do either or both of the following:

(A) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable.

(B) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(6) Unreasonably reduce the duty of care under subdivision (c) of Section 15904.08.

(7) Eliminate the obligation of good faith and fair dealing under subdivision (b) of Section 15903.05 and subdivision (d) of Section 15904.08, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable.

(8) Vary the power of a person to dissociate as a general partner under subdivision (a) of Section 15906.04 except to require that the notice under subdivision (a) of Section 15906.03 be in a record.

(9) Eliminate the power of a court to decree dissolution in the circumstances specified in subdivision (a) of Section 15908.02.

(10) Vary the requirement to wind up the partnership's business as specified in Section 15908.03.

(11) Unreasonably restrict the right to maintain an action under Article 10 (commencing with Section 15910.01).

(12) Restrict the right of a partner to approve a conversion or merger.

(13) Vary the provisions of Article 11.5 (commencing with Section 15911.20), except to the extent expressly permitted by such provisions.

(14) Restrict rights under this chapter of a person other than a partner or a transferee.

SEC. 42. Section 15901.16 of the Corporations Code is amended to read:

15901.16. (a) In addition to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon limited partnerships and foreign limited partnerships as provided in this section.

(b) Personal service of a copy of any process against the limited partnership or the foreign limited partnership will constitute valid service on the limited partnership if delivered either (1) to any individual designated by it as agent or, if a limited partnership, to any general partner or (2) if the designated agent or, if a limited partnership, general partner is a corporation, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 of the Corporations Code at the office of the corporate agent or to any officer of the general partner, shall constitute valid service on the limited partnership or the foreign limited partnership. No change in the address of the agent for service of process where the agent is an individual or appointment of a new agent for service of process shall be effective (1) for a limited partnership until an amendment to the certificate of limited partnership is filed or (2) for a foreign limited partnership until an amendment to the application for registration is filed. In the case of a foreign limited partnership that has appointed the Secretary of State as agent for service of process by reason of subdivision (b) of Section 15909.07, process shall be delivered by hand to the Secretary of State, or to any person employed in the capacity of assistant or deputy, which shall be one copy of the process for each defendant to be served, together with a copy of the court order authorizing the service and the fee therefor. The order shall include and set forth an address to which the process shall be sent by the Secretary of State.

(c) (1) If an agent for service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personal delivery of the process, and it is shown by affidavit to the satisfaction of the court that process against a limited partnership or foreign limited partnership cannot be served with reasonable diligence upon the designated agent or, if a foreign limited partnership, upon any general partner by hand in the manner

provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a) of Section 415.30 of the Code of Civil Procedure, the court may make an order that the service shall be made upon a domestic limited partnership which has filed a certificate or upon a foreign limited partnership which has a certificate of registration to transact business in this state by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing the service. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(2) Upon receipt of any such copy of process and the fee therefor, the Secretary of State shall give notice of the service of the process to the limited partnership or foreign limited partnership, at its principal office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process.

(3) The Secretary of State shall keep a record of all process served upon the Secretary of State under this chapter and shall record therein the time of service and the Secretary of State's action with reference thereto. A certificate under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the limited partnership or foreign limited partnership, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the matters stated therein.

(d) (1) The certificate of a limited partnership and the application for a certificate of registration of a foreign limited partnership shall designate, as the agent for service of process, an individual residing in this state or a corporation which has complied with Section 1505 of the Corporations Code and whose capacity to act as an agent has not terminated. If an individual is designated, the statement shall set forth that person's complete business or residence address in this state. If a corporate agent is designated, no address for it shall be set forth.

(2) An agent designated for service of process may file with the Secretary of State a signed and acknowledged written statement of resignation as an agent. Thereupon the authority of the agent to act in that capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the certificate of resignation by mail to the limited partnership or foreign limited partnership addressed to its designated office.

(3) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state or if the corporate agent for that purpose, resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights,

powers and privileges suspended or ceases to exist, (A) the limited partnership shall promptly file an amendment to the certificate designating a new agent or (B) the foreign limited partnership shall promptly file an amendment to the application for registration.

(e) In addition to any other discovery rights which may exist, in any case pending in a California court having jurisdiction in which a party seeks records from a partnership formed under this chapter, whether or not the partnership is a party, the court shall have the power to order the production in California of the books and records of the partnership on the terms and conditions that the court deems appropriate.

SEC. 43. Section 15903.03 of the Corporations Code is amended to read:

15903.03. (a) A limited partner is not liable for any obligation of a limited partnership unless named as a general partner in the certificate or, in addition to exercising the rights and powers of a limited partner, the limited partner participates in the control of the business. If a limited partner participates in the control of the business without being named as a general partner, that partner may be held liable as a general partner only to persons who transact business with the limited partnership with actual knowledge of that partner's participation in control and with a reasonable belief, based upon the limited partner's conduct, that the partner is a general partner at the time of the transaction. Nothing in this chapter shall be construed to affect the liability of a limited partner to third parties for the limited partner's participation in tortious conduct.

(b) A limited partner does not participate in the control of the business within the meaning of subdivision (a) solely by doing, attempting to do, or having the right or power to do, one or more of the following:

(1) Being any of the following:

(A) An independent contractor for, an agent or employee of, or transacting business with, the limited partnership or a general partner of the limited partnership.

(B) An officer, director, or shareholder of a corporate general partner of the limited partnership.

(C) A member, manager, or officer of a limited liability company that is a general partner of the limited partnership.

(D) A limited partner of a partnership that is a general partner of the limited partnership.

(E) A trustee, administrator, executor, custodian, or other fiduciary or beneficiary of an estate or trust that is a general partner.

(F) A trustee, officer, adviser, shareholder, or beneficiary of a business trust that is a general partner.

(2) Consulting with and advising a general partner with respect to the business of the limited partnership.

(3) Acting as surety for the limited partnership or for a general partner, guaranteeing one or more specific debts of the limited partnership, providing collateral for the limited partnership or general partner, borrowing money from the limited partnership or a general partner, or lending money to the limited partnership or a general partner.

(4) Approving or disapproving an amendment to the partnership agreement.

(5) Voting on, proposing, or calling a meeting of the partners.

(6) Winding up the partnership pursuant to Section 15908.03.

(7) Executing and filing a certificate pursuant to Section 15902.05, a certificate of withdrawal pursuant to paragraph (4) of subdivision (a) of Section 15902.04, or a certificate of cancellation of the certificate of limited partnership pursuant to paragraph (6) of subdivision (a) of Section 15902.04.

(8) Serving on an audit committee or committee performing the functions of an audit committee.

(9) Serving on a committee of the limited partnership or the limited partners for the purpose of approving actions of the general partner.

(10) Calling, requesting, attending, or participating at any meeting of the partners or the limited partners.

(11) Taking any action required or permitted by law to bring, pursue, settle, or terminate a derivative action on behalf of the limited partnership.

(12) Serving on the board of directors or a committee of, consulting with or advising, being or acting as an officer, director, stockholder, partner, member, manager, agent, or employee of, or being or acting as a fiduciary for, any person in which the limited partnership has an interest.

(13) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this subdivision.

(c) The enumeration in subdivision (b) does not mean that any other conduct or the possession or exercise of any other power by a limited partner constitutes participation by the limited partner in the control of the business of the limited partnership.

SEC. 44. Section 15905.06 of the Corporations Code is amended to read:

15905.06. A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to subdivision (b) of Section 15908.09, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.

SEC. 45. Section 15911.12 of the Corporations Code is amended to read:

15911.12. (a) Each limited partnership and other business entity that desires to merge shall approve an agreement of merger. The agreement of merger shall be approved by all general partners of each constituent limited partnership and the principal terms of the merger shall be approved by a majority in interest of each class of limited partners of each constituent limited partnership, unless a greater approval is required by the partnership agreement of the constituent limited partnership. Notwithstanding the previous sentence, if the limited partners of any constituent limited partnership become personally liable for any obligations of a constituent limited partnership or constituent other business entity as a result of the merger, the principal terms of the agreement of merger shall be approved by all of the limited partners of the constituent limited partnership, unless the agreement of merger provides that all limited partners will have the dissenters' rights provided in Article 11.5 (commencing with Section 15911.20). The agreement of merger shall be approved on behalf of each constituent other business entity by those persons required to approve the merger by the laws under which it is organized. Other persons, including a parent of a constituent limited partnership, may be parties to the agreement of merger. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of organization of the surviving limited partnership or surviving other business entity, and of each disappearing limited partnership and disappearing other business entity, and the agreement of merger may change the name of the surviving limited partnership, which new name may be the same as or similar to the name of a disappearing domestic or foreign limited partnership, subject to Section 15901.08.

(3) The manner of converting the partnership interests of each of the constituent limited partnerships into interests, shares, or other securities of the surviving limited partnership or surviving other business entity, and if partnership interests of any of the constituent limited partnerships are not to be converted solely into interests, shares, or other securities of the surviving limited partnership or surviving other business entity, the cash, property, rights, interests, or securities that the holders of the partnership interests are to receive in exchange for the partnership interests, which cash, property, rights, interests, or securities may be in addition to or in lieu of interests, shares, or other securities of the surviving limited partnership or surviving other business entity, or that the partnership interests are canceled without consideration.

(4) Any other details or provisions that are required by the laws under which any constituent other business entity is organized, including, if a

domestic corporation is a party to the merger, subdivision (b) of Section 1113.

(5) Any other details or provisions that are desired, including, without limitation, a provision for the treatment of fractional partnership interests.

(b) Each limited partnership interest of the same class of any constituent limited partnership, other than a limited partnership interest in another constituent limited partnership that is being canceled and that is held by a constituent limited partnership or its parent or a limited partnership of which the constituent limited partnership is a parent, shall, unless all limited partners of the class consent, be treated equally with respect to any distribution of cash, property, rights, interests, or securities. Notwithstanding this subdivision, except in a merger of a limited partnership with a limited partnership in which it controls at least 90 percent of the limited partnership interests entitled to vote with respect to the merger, the unredeemable limited partnership interests of a constituent limited partnership may be converted only into unredeemable interests or securities of the surviving limited partnership or other business entity or a parent if a constituent limited partnership or a constituent other business entity or its parent owns, directly or indirectly, prior to the merger, limited partnership interests of another constituent limited partnership or interests or securities of a constituent other business entity representing more than 50 percent of the interests or securities entitled to vote with respect to the merger of the other constituent limited partnership or constituent other business entity or more than 50 percent of the voting power, as defined in Section 194.5, of a constituent other business entity that is a domestic corporation, unless all of the limited partners of the class consent. This subdivision shall apply only to constituent limited partnerships with more than 35 limited partners.

(c) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the certificate of merger or the agreement of merger, as provided in Section 15911.14, if the amendment is approved by the general partners of each constituent limited partnership in the same manner as required for approval of the original agreement of merger and, if the amendment changes any of the principal terms of the agreement of merger, the amendment is approved by the limited partners of each constituent limited partnership in the same manner and to the same extent as required for the approval of the original agreement of merger, and by each of the constituent other business entities.

(d) The general partners of a constituent limited partnership may, in their discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent limited partnerships and constituent other business entities, without further approval by the limited partnership interests, at any time before the merger is effective.

(e) An agreement of merger approved in accordance with subdivision (a) may (1) effect any amendment to the partnership agreement of any constituent limited partnership or (2) effect the adoption of a new partnership agreement for a constituent limited partnership if it is the surviving limited partnership in the merger. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger. Notwithstanding the above provisions of this subdivision, if a greater number of limited partners is required to approve an amendment to the partnership agreement of a constituent limited partnership than is required to approve the agreement of merger pursuant to subdivision (a), and the number of limited partners that approve the agreement of merger is less than the number of limited partners required to approve an amendment to the partnership agreement of the constituent limited partnership, any amendment to the partnership agreement or adoption of a new partnership agreement of that constituent limited partnership made pursuant to the first sentence of this subdivision shall be effective only if the agreement of merger provides that all of the limited partners shall have the dissenters' rights provided in Article 11.5 (commencing with Section 15911.20).

(f) The surviving limited partnership or surviving other business entity shall keep the agreement of merger at its designated office or at the business address specified in paragraph (5) of subdivision (a) of Section 15911.14, as applicable, and, upon the request of a limited partner of a constituent limited partnership or a holder of shares, interests, or other securities of a constituent other business entity, the general partners of the surviving limited partnership or the authorized person of the surviving other business entity shall promptly deliver to the limited partner or the holder of shares, interests, or other securities, at the expense of the surviving limited partnership or surviving other business entity, a copy of the agreement of merger. A waiver by a partner or holder of shares, interests, or other securities of the rights provided in this subdivision shall be unenforceable.

SEC. 46. Section 15911.26 of the Corporations Code is amended to read:

15911.26. (a) If the court appoints an appraiser or appraisers, they shall proceed forthwith to determine the fair market value per interest of the outstanding limited partnership interests of the limited partnership, by class if necessary. Within the time fixed by the court, the appraisers, or a majority of them, shall make and file a report in the office of the clerk of the court. Thereupon, on the motion of any party, the report shall be submitted to the court and considered on any additional evidence

as the court considers relevant. If the court finds the report reasonable, the court may confirm it.

(b) If a majority of the appraisers appointed fails to make and file a report within 30 days from the date of their appointment, or within any further time as may be allowed by the court, or the report is not confirmed by the court, the court shall determine the fair market value per interest of the outstanding limited partnership interests of the limited partnership, by class if necessary.

(c) Subject to Section 15911.27, judgment shall be rendered against the limited partnership for payment of an amount equal to the fair market value, as determined by the court, of each dissenting interest which any dissenting limited partner who is a party, or has intervened, is entitled to require the limited partnership to purchase, with interest thereon at the legal rate on judgments from the date of consummation of the reorganization.

(d) Any judgment shall be payable forthwith, provided, however, that with respect to limited partnership interests evidenced by transferable certificates of interest, only upon the endorsement and delivery to the limited partnership of those certificates representing the interests described in the judgment. Any party may appeal from the judgment.

(e) The costs of the action, including reasonable compensation for the appraisers, to be fixed by the court, shall be assessed or apportioned as the court considers equitable, but, if the appraisal exceeds the price offered by the limited partnership, the limited partnership shall pay the costs (including, in the discretion of the court, if the value awarded by the court for the dissenting interest is more than 125 percent of the price offered by the limited partnership under subdivision (a) of Section 15911.22, attorney's fees and fees of expert witnesses).

SEC. 47. Section 317 of the Education Code is amended to read:

317. (a) As a condition for receiving funds under Section 315.5 in any fiscal year, a school district shall collect the following data for use in updating its plans and to make available to the state as requested:

(1) Improvement in adult English-as-a-second-language literacy skill levels in reading, writing, and speaking the English language, numeracy, problemsolving, and other literacy skills.

(2) Improvements in the attendance of pupils with limited-English-language proficiency who have received tutoring from adults who have been identified as participants in programs established pursuant to Sections 315, 315.5, 316, and 316.5.

(b) A school district that receives funding under Section 315.5 shall provide a pretest and a posttest of reading achievement for adult English-as-a-second-language pupils.

(c) The district shall review individual K–12 pupil data from the English language development test administered under Section 60810 and the Standardized Testing and Reporting (STAR) Program set forth in Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, in order to determine whether there has been achievement progress made by K–12 pupils who were tutored by Community-Based English Tutoring (CBET) Program students.

SEC. 48. 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, mathematics, 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. 49. 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 both 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) and any federal regulations adopted pursuant thereto.

(d) The department shall adopt regulations to implement this section.

SEC. 50. Section 10601.5 of the Education Code is amended 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 and 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 shall 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 shall 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 of 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. 51. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the district. The

governing board may sell the bonds at a negotiated sale or by competitive bidding.

(b) Prior to the sale, the governing board shall adopt a resolution, as an agenda item at a public meeting, that includes all of the following:

(1) Express approval of the method of sale.

(2) Statement of the reasons for the method of sale selected.

(3) Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the governing board shall disclose their identities at the public meeting occurring after they have been selected.

(4) Estimates of the costs associated with the bond issuance.

(c) After the sale, the governing board shall do both of the following:

(1) Present the actual cost information for the sale at its next scheduled public meeting.

(2) Submit an itemized summary of the costs of the bond sale to the California Debt and Investment Advisory Commission.

(d) The governing board shall ensure that all necessary information and reports regarding the sale or planned sale of bonds by the school district it governs are submitted to the California Debt and Investment Advisory Commission in compliance with Section 8855 of the Government Code.

(e) The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board shall comply with Sections 15147 and 15148. The bonds shall be sold by the governing board no later than the date designated by the governing board as the final date for the sale of the bonds.

(f) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

(g) The governing board may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may be created in the county treasury or held by a fiscal agent appointed by the district for this purpose, separate from the building fund and the

interest and sinking fund of the district. The proceeds deposited shall be drawn out on the order of the governing board or an officer of the district duly authorized by the governing board to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board or duly authorized officer, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(h) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount of the annual reserve permitted by Section 15250 or in any lesser amount, as the governing board shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(i) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

SEC. 52. Section 17077.42 of the Education Code is amended to read:

17077.42. In order to be approved for a grant under this article, the applicant district shall demonstrate that it has complied with all of the following:

(a) The school district has entered into a joint-use agreement with a governmental agency, public community college, public college or public university, or a nonprofit organization approved by the board.

(b) The joint-use agreement specifies the method of sharing capital and operating costs, specifies relative responsibilities for the operation and staffing of the facility, and specifies the manner in which the safety of the pupils will be ensured.

(c) The joint-use agreement specifies the amount of the contribution to be made by the school district and the joint-use partner toward the 50-percent local share of eligible project costs. The contribution made by a joint-use partner shall be no less than 25 percent of eligible project costs, unless the school district has passed a local bond which specifies that proceeds of sale of the bonds are to be used for the joint-use project, in which case the school district may opt to provide up to the full 50-percent local share of eligible costs.

(d) The school district demonstrates that the facility will be used to the maximum extent possible for both school and community purposes, or both school and higher education purposes, as applicable.

(e) (1) The project application qualifies for funding under paragraph (1) of subdivision (b) of Section 17077.40 and the school district has received all approvals necessary for apportionment under this chapter.

(2) The project qualifies for funding under paragraph (2) or (3) of subdivision (b) of Section 17077.40 and the school district has completed preliminary plans for the project and has received State Department of Education approval of the plans.

SEC. 53. Section 17078.53 of the Education Code is amended to read:

17078.53. (a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

(g) (1) The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2) (A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

SEC. 54. Section 17213 of the Education Code is amended to read:

17213. The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

(a) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action

pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.

(b) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or extremely hazardous materials, substances, or waste. The school district, as the lead agency, shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities or significant pollution sources specified in subdivision (b).

(2) The facilities or other pollution sources specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(C) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the

Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(D) The governing board finds that neither of the conditions set forth in subparagraph (B) or (C) can be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(3) "Extremely hazardous substances" means any material defined pursuant to paragraph (2) of subdivision (g) of Section 25532 of the Health and Safety Code.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(8) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the State Air Resources Board.

(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the Health and Safety Code,

and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

SEC. 55. 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 Program Development Fund, minus the subsequent transfer of funds, with interest, into the Teachers' Retirement Fund pursuant to 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. 56. Section 24300.2 of the Education Code is amended to read:

24300.2. (a) A member who retired and elected an option pursuant to Section 24300 may elect to change options, subject to all of the following:

(1) A member who elected Option 2 may elect to change to the 100-percent beneficiary option described in paragraph (1) or the 75-percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(2) A member who elected Option 3, Option 4, or Option 5 may elect to change to the 75-percent beneficiary option described in paragraph

(2) or the 50-percent beneficiary option described in paragraph (3) of subdivision (a) of Section 24300.1.

(3) A member who elected Option 6 or Option 7 may elect to change to the 75-percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(4) A member who elected Option 8 may elect to have any designated percentage of his or her unmodified allowance changed in accordance with paragraph (1), (2), or (3).

(5) The election by a member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(6) The member designates the same beneficiary that was designated under the prior option elected by the member, if the option and beneficiary designation were effective on or before December 31, 2006.

(7) The member and the option beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the option beneficiary are not afflicted with a known terminal illness.

(8) The option beneficiary has not predeceased the member as of the effective date of the change in the option by the member.

(b) The change in the option by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new option elected by the member.

(d) If the member and the option beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the option beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 days following the date of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her option as described in subdivision (a), the retirement allowance of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The member shall not change options in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 57. Section 32221.5 of the Education Code is amended to read:

32221.5. (a) A school district that elects to operate an interscholastic athletic team or teams shall include the following statement, printed in boldface type of prominent size, in offers of insurance coverage that are sent to members of school athletic teams:

"Under state law, school districts are required to ensure that all members of school athletic teams have accidental injury insurance that covers medical and hospital expenses. This insurance requirement can be met by the school district offering insurance or other health benefits that cover medical and hospital expenses.

Some pupils may qualify to enroll in no-cost or low-cost local, state, or federally sponsored health insurance programs. Information about these programs may be obtained by calling _____ [Insert toll-free telephone number]."

(b) The statement described in subdivision (a) shall also be incorporated into any other letters or printed materials, in boldface type of prominent size, that contain the name or logo, or both, of the school district and are sent to members of school athletic teams to inform them

of the provisions of this article, or any other applicable provision of state law, regarding the provision of insurance protection.

(c) The statement described in subdivision (a) shall include the toll-free telephone number or numbers for any of the following:

(1) The Healthy Families Program.

(2) Medi-Cal.

(3) Any other comparable toll-free telephone number for a no-cost or low-cost local, state, or federally sponsored health insurance program.

(d) All notices regarding insurance protection for members of athletic teams that are sent to team members are required to be translated pursuant to Section 48985.

SEC. 58. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on the school in which to enroll his or her children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Educational Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded. The assessment of estimated expenditures per pupil shall reflect the actual salaries of personnel assigned to the schoolsite. The assessment of estimated expenditures per pupil shall be reported in total, shall be

reported in subtotal by restricted and by unrestricted source, and shall include a reporting of the average of actual salaries paid to certificated instructional personnel at that schoolsite.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Educational Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period.

(A) For purposes of this paragraph, "vacant teacher position" means a position to which a single-designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

(B) For purposes of this paragraph, "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(6) (A) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and are adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(B) The availability of sufficient textbooks and other instructional materials, as determined pursuant to Section 60119, for each pupil, including English learners, in each of the areas enumerated in clauses (i) to (iii), inclusive. If the governing board determines, pursuant to Section 60119 that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of pupils who lack

sufficient standards-aligned textbooks or instructional materials in each subject area. The subject areas to be included are all of the following:

(i) The core curriculum areas of reading/language arts, mathematics, science, and history/social science.

(ii) Foreign language and health.

(iii) Science laboratory equipment for grades 9 to 12, inclusive, as appropriate.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as specified in Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups, as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination,

as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Educational Data System or any successor data system.

(24) Whether the school has a college admissions test preparation course program.

(25) Career technical education data measures, including all of the following:

(A) A list of programs offered by the school district in which pupils at the school may participate and that are aligned to the model curriculum standards adopted pursuant to Section 51226, and program sequences offered by the school district. The list should identify courses conducted by a regional occupation center or program, and those conducted directly by the school district.

(B) A listing of the primary representative of the career technical advisory committee of the school district and the industries represented.

(C) The number of pupils participating in career technical education.

(D) The percentage of pupils that complete a career technical education program and earn a high school diploma.

(E) The percentage of career technical education courses that are sequenced or articulated between a school and institutions of postsecondary education.

(c) If the Commission on State Mandates finds a school district is eligible for a reimbursement of costs incurred complying with this section, the school district shall be reimbursed only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Section 41020. If the information is determined to be inaccurate, the school district remains eligible for reimbursement if the information is corrected by May 15.

(d) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 59. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The department shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the department and by local educational agencies, including a field to report the determination of the sufficiency of textbooks and instructional materials, pursuant to Section 60119, and a summary statement of the condition of school facilities, as required by Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089. The department shall provide examples of summary statements of the condition of school facilities that are acceptable and those that are unacceptable. When the template for a school is completed, it should enable parents and guardians to compare the manner in which local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the department shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the department will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the department shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the department has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the department.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard

definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The department shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The department shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The department shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators (URLs) for their Web sites to the department.

(i) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c).

(j) The department shall provide recommendations for changes to the California Basic Educational Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(k) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(*l*) The department shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

SEC. 60. Section 33353 of the Education Code is amended to read:

33353. (a) The California Interscholastic Federation is a voluntary organization that consists of school and school-related personnel with responsibility for administering interscholastic athletic activities in

secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the department, implement the following policies:

(1) Give the governing boards of school districts specific authority to select their athletic league representatives.

(2) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

(4) Provide information to parents and pupils regarding the state and federal complaint procedures for discrimination complaints arising out of interscholastic athletic activities.

(b) (1) The California Interscholastic Federation shall report to the Legislature and the Governor on its evaluation and accountability activities undertaken pursuant to this section on or before January 1, 2010. This report shall include, but not be limited to, the goals and objectives of the California Interscholastic Federation with regard to, and the status of, all of the following:

(A) The governing structure of the California Interscholastic Federation, and the effectiveness of that governance structure in providing leadership for interscholastic athletics in secondary schools.

(B) Methods to facilitate communication with agencies, organizations, and public entities whose functions and interests interface with the California Interscholastic Federation.

(C) The quality of coaching and officiating, including, but not limited to, professional development for coaches and athletic administrators, and parent education programs.

(D) Gender equity in interscholastic athletics, including, but not limited to, the number of male and female pupils participating in interscholastic athletics in secondary schools, and action taken by the California Interscholastic Federation in order to ensure compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

(E) Health and safety of pupils, coaches, officials, and spectators.

(F) The economic viability of interscholastic athletics in secondary schools, including, but not limited to, the promotion and marketing of interscholastic athletics.

(G) New and continuing programs available to pupil-athletes.

(H) Awareness and understanding of emerging issues related to interscholastic athletics in secondary schools.

(2) It is the intent of the Legislature that the California Interscholastic Federation accomplish all of the following:

(A) During years in which the California Interscholastic Federation is not required to report to the Legislature and the Governor pursuant to paragraph (1), it shall hold a public comment period relating to that report at three regularly scheduled federation council meetings per year.

(B) Annually allow public comment on the policies and practices of the California Interscholastic Federation at a regularly scheduled federation council meeting.

(C) Require sections of the California Interscholastic Federation to allow public comment on the policies and practices of the California Interscholastic Federation and its sections, and the report required pursuant to paragraph (1), at each regularly scheduled section meeting.

(D) Engage in a comprehensive outreach effort to promote the public hearings described in subparagraphs (A) and (C).

(c) This section shall become inoperative on January 1, 2012, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 61. Section 33354 of the Education Code is amended to read:

33354. (a) The department shall have the following authority over interscholastic athletics:

(1) The department may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) (A) If the department states that a school district, an association, consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department may require the school district, association, consortium, or the federation to adjust its policy so that it is in compliance. However, the department shall not have authority to determine the specific policy that a school district must adopt in order to comply with state and federal law.

(B) Notwithstanding any other provision of law, a complainant from a public school who wishes to file a discrimination complaint pursuant to the regulations adopted for the purpose of implementing Section 261 based on interscholastic activities conducted by an association, a consortium of school districts, or by the California Interscholastic Federation, is not required to first file a discrimination complaint with a school district, but may file an initial discrimination complaint directly with the department, and the department shall have the authority to specify, with regard to a specific discrimination complaint, the administrative remedies that an association, a consortium of school

districts, or the California Interscholastic Federation must provide in order to comply with state or federal law.

(3) If the department states that a school district, association, consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association, consortium, or the federation does not change its policy in order to comply with these laws, the department may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts that are members of the California Interscholastic Federation or the association or consortium that the department states is in noncompliance. In a legal proceeding, the court shall determine the matter de novo. The department may make recommendations for appropriate remedies in these proceedings.

(b) This section does not limit the discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any policy, program, or activity that is in compliance with state and federal law.

(c) The state law with which the policies of school districts, associations, or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are required to comply, in accordance with this section, includes, but is not limited to, any regulations issued by the state board pursuant to Section 221.1 with regard to discrimination in interscholastic athletics.

SEC. 62. 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 California 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 California 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. 63. Section 35179 of the Education Code is amended to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall ensure that all interscholastic

policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on any basis prohibited by Chapter 2 (commencing with Section 200) of Part 1.

(e) Notwithstanding any other provision of law, no voluntary interscholastic athletic association shall deny a school from participating in interscholastic athletic activities because of the religious tenets of the school, regardless of whether that school is directly controlled by a religious organization.

(f) Interscholastic athletics is defined as those policies, programs, and activities that are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

SEC. 64. Section 35900 of the Education Code is amended to read:

35900. (a) The Legislature finds and declares both of the following:

(1) As the largest school district in California and an urban district with high numbers of pupils from historically disadvantaged groups, the Los Angeles Unified School District has unique challenges and resources that require and deserve special attention to ensure that all pupils are given the opportunity to reach their full potential.

(2) The freedom to deviate from the strictures of generally applicable education statutes and regulations while maintaining the constant commitment to fairness and equity, and to increasing academic achievement among all pupils regardless of background, is central to the success of quality schools in California and is appropriate, as a concept, for the unique circumstances of the Los Angeles Unified School District.

(b) It is the intent of the Legislature that the Los Angeles Unified School District achieve the following pupil learning and academic achievement expectations through the enactment of this chapter:

(1) Significantly improved pupil learning and academic achievement based on the academic standards of the state, graduation requirements,

and other standards for assessing the achievement of pupils, as measured by the California Standards Tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and other valid and reliable assessments of academic achievement.

(2) Significantly improved graduation rates and significantly reduced dropout rates.

(3) A significant reduction in the academic achievement gap among racial and ethnic groups, between pupils with exceptional needs and pupils without those needs, and between English language learners and pupils who are fluent in English, so that all pupils are attaining similar, acceptable levels of academic achievement.

(4) Parent involvement and satisfaction with the schools that their children attend.

(5) The success of English language learner pupils in developing English language proficiency and increased redesignation as measured by the California English Language Development Test.

(c) It is the intent of the Legislature that the schools and administration of the Los Angeles Unified School District ensure that:

(1) All schools are clean and safe places for pupils and school staff.

(2) Each pupil has a qualified teacher who has had appropriate professional development for the one or more grades and subjects that he or she teaches.

(3) Each school has a principal who has had appropriate professional development to improve his or her ability as an educational leader to assist in improving teaching and learning at the school to which he or she is assigned, in building strong educational teams, and in promoting parental involvement and community relations.

(4) There is transparency in the fiscal affairs of the schools and the school district.

(5) Parents, teachers, and other school staff are full partners in the decisions that affect schools.

(6) The district is decentralized to reduce management bureaucracies and increase resources to schools and classrooms.

(7) Class sizes are at or below statewide averages for the corresponding grade levels.

(8) Every segment of the school community is held accountable for the achievement of the goals described in this section.

(d) Except as expressly and specifically stated in this chapter, it is the intent of the Legislature that the application of Part 25 (commencing with Section 44000) of this code and Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code to the Los Angeles Unified School District not be changed or altered.

(e) It is further the intent of the Legislature that, in performing the school-related duties set forth in this chapter, the council of mayors described in Section 35920 and the partnership described in Section 35931, which includes the Mayor of the City of Los Angeles, function as agencies authorized to maintain public schools, similar to a school district or county office of education. The council of mayors and the partnership are, therefore, a part of the public school system of the state in performing the duties established in this chapter within the meaning of Section 6 of Article IX of the California Constitution.

(f) Consistent with the council of mayors' status as part of the public school system, nothing in this chapter shall be construed to require any city to expend city resources on services to the Los Angeles Unified School District or its pupils unless the expenditure is the result of a city's legislative act taken pursuant to the city's ordinary legislative decisionmaking process. Similarly, any liability incurred by any member of the council of mayors or mayor's community partnership for education excellence in undertaking any of the functions described in this chapter shall be borne by the Los Angeles Unified School District and not by the County of Los Angeles, or any of the cities within its boundaries.

SEC. 65. Section 35932 of the Education Code is amended to read:

35932. (a) Notwithstanding any other provisions of law, and except for the authority to negotiate and enforce collective bargaining agreements, all authority exercised by the board and the district superintendent with respect to the schools in the demonstration project shall be transferred to the partnership described in subdivision (a) of Section 35931, which is directed by the mayor. In a manner consistent with districtwide collective bargaining agreements, the partnership may seek waivers, pursuant to Section 35910, from the state board and authority to operate the schools in the demonstration project with maximum flexibility and efficiency.

(b) The schools in the demonstration project shall continue to exist as district schools, and employees at the schools shall be deemed to be district employees with all the rights of district employees.

(c) Schools in the demonstration project shall continue to be funded with district resources, including average daily attendance revenue and state or federal categorical or other targeted funding generated by, or granted based on, the pupils in the schools in each cluster. That funding may also be supplemented by private funds, recorded and accounted for by the partnership. The LAUSD shall provide funds and may assess costs to partnership schools, provided that these schools shall receive the same benefit from any new or increased local, state, or federal funding that these schools would receive if they were not partnership schools.

(d) The partnership schools and the LAUSD shall develop a budget and cost system that carries out the provisions of this section.

(e) The LAUSD shall not take actions that have negative fiscal consequences for partnership schools due to their participation in the partnership.

SEC. 66. Section 37220 of the Education Code is amended to read:

37220. (a) Except as otherwise provided, the public schools shall close on the following holidays:

(1) January 1.

(2) The third Monday in January or the Monday or Friday in the week in which January 15 occurs, known as "Dr. Martin Luther King, Jr. Day." On the Friday preceding the day on which schools are closed, schools shall include exercises commemorating and directing attention to the history of the civil rights movement in the United States and particularly the role therein of Dr. Martin Luther King, Jr.

(3) The Monday or Friday of the week in which February 12 occurs, known as "Lincoln Day." On the day that school is in session prior to the day on which schools are closed for that purpose, all public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln.

(4) The third Monday in February, known as "Washington Day." On the Friday preceding, all public schools and educational institutions throughout the state shall hold exercises in memory of George Washington.

(5) The last Monday in May, known as "Memorial Day."

(6) July 4.

(7) The first Monday in September, known as "Labor Day."

(8) November 11, known as "Veterans Day."

(9) That Thursday in November proclaimed by the President as "Thanksgiving Day."

(10) December 25.

(11) All days appointed by the Governor for a public fast, thanksgiving, or holiday, and all special or limited holidays on which the Governor provides that the schools shall close.

(12) All days appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(13) Any other day designated as a holiday by the governing board of the school district.

(b) When any of the holidays on which the schools would be closed falls on Sunday, the public schools shall close on the Monday following.

(c) When any of the holidays on which the schools would be closed falls on Saturday, the public schools shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(d) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different from the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(e) Except for Veterans Day, as designated in paragraph (8) of subdivision (a), the governing board of a school district, by adoption of a resolution, may revise the date upon which the schools of the district close in observance of any of the holidays identified in subdivision (a).

(f) The governing board of a school district may not request a waiver of paragraph (8) of subdivision (a) from the state board.

(g) This section does not prohibit a school district from authorizing its facilities or grounds to be used in accordance with Section 38131 on those days on which the public schools are closed.

SEC. 67. Section 41207.1 of the Education Code is amended to read:

41207.1. (a) Notwithstanding Section 41206, the minimum state educational funding guarantee for school districts and community college districts for the 2004–05 fiscal year, as determined pursuant to Chapter 213 of the Statutes of 2004, is forty-eight billion six hundred seventy-five million six hundred seventy-four thousand dollars ($48,675,674,000), creating an outstanding balance of one billion six hundred twenty million nine hundred twenty-eight thousand dollars ($1,620,928,000). The outstanding balance shall be appropriated and allocated pursuant to Article 3.7 (commencing with Section 52055.700) of Chapter 6.1 of Part 28.

(b) Notwithstanding Section 41206, the outstanding balance of the minimum state educational funding requirement for school districts and community college districts required by subdivision (b) of Section 8 of Article XVI of the California Constitution in the 2005–06 fiscal year shall be determined using actual data agreed to by the Superintendent and the Director of Finance no later than January 31, 2008. The Director of Finance shall provide a written notification to the Legislature within one month after completion of the determination, detailing the data of the determination. The outstanding balance shall be appropriated and allocated pursuant to Article 3.7 (commencing with Section 52055.700) of Chapter 6.1 of Part 28.

(c) When the amount determined to be owed for the 2004–05 and 2005–06 fiscal years pursuant to subdivision (a) or (b) is fully appropriated and allocated pursuant to Article 3.7 (commencing with Section 52055.700) of Chapter 6.1 of Part 28, the data used in the computations made under subdivisions (a) and (b) and the total amount owed by the state for the support of school districts and community

college districts pursuant to Section 8 of Article XVI of the California Constitution and Chapter 213 of the Statutes of 2004 for those fiscal years, including as much of the maintenance factor for those fiscal years determined pursuant to subdivision (d) of Section 8 of Article XVI as has been allocated as required by subdivision (e) of Section 8 of Article XVI by virtue of the payments made under this section, shall be deemed certified for purposes of Section 41206.

SEC. 68. Section 42238.51 of the Education Code, as added by Section 2 of Chapter 653 of the Statutes of 2006, is amended to read:

42238.51. (a) For purposes of paragraph (1) of subdivision (a) of Section 42238.5, a sponsoring school district's average daily attendance shall be computed as follows:

(1) Compute the sponsoring school district's regular average daily attendance in the current year, excluding the attendance of pupils in charter schools.

(2) (A) Compute the regular average daily attendance used to calculate the second principal apportionment of the school district for the prior year, excluding the attendance of pupils in charter schools.

(B) Compute the attendance of pupils who attended one or more noncharter schools of the school district between July 1, and the last day of the second period, inclusive, in the prior year, and who attended a charter school sponsored by the school district between July 1, and the last day of the second period, inclusive, in the current year. For the purposes of this paragraph, a pupil enrolled in a grade at a charter school sponsored by the school district shall not be counted if the school district does not offer classes for pupils enrolled in that grade. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the charter school in the current year.

(C) Compute the attendance of pupils who attended a charter school sponsored by the school district in the prior year and who attended one or more noncharter schools of the school district in the current year. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the school district in the current year.

(D) From the amount determined pursuant to subparagraph (B), subtract the amount determined pursuant to subparagraph (C). If the result is less than zero, the amount shall be deemed to be zero.

(E) The prior year average daily attendance determined pursuant to subparagraph (A) shall be reduced by the amount determined pursuant to subparagraph (D).

(3) To the greater of the amounts computed pursuant to paragraphs (1) and (2), add the regular average daily attendance in the current year

of all pupils attending charter schools sponsored by the district that are not funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.

(b) For the purposes of this section, a "sponsoring school district" shall mean a "sponsoring local educational agency," as defined in Section 47632.

(c) This section shall become operative on July 1, 2007.

SEC. 69. 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) 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

employee 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. 70. Section 44041.5 of the Education Code is amended to read:

44041.5. (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) "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 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 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 Section 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 of the following:

(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. 71. Section 44468 of the Education Code is amended to read:

44468. (a) An internship program, established pursuant to Article 7.5 (commencing with Section 44325) of Chapter 2 or this article, that is accredited by the commission shall provide interns who meet entrance criteria and are accepted to a multiple subject teaching credential program, a single subject teaching credential program, or a level 1

education specialist credential program that provides instruction to individuals with mild to moderate disabilities, the opportunity to choose an early program completion option, culminating in a five-year preliminary teaching credential. The early completion option shall be made available to interns who meet the following requirements:

(1) Pass a written assessment that assesses knowledge of teaching foundations, is adopted for this purpose by the commission, and includes all of the following:

(A) Human development as it relates to teaching and learning aligned with the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605.

(B) Techniques to address learning differences including working with pupils with special needs.

(C) Techniques to address working with English learners to provide access to the curriculum.

(D) Reading instruction as set forth in paragraph (4) of subdivision (b) of Section 44259.

(E) The assessment of pupil progress based upon the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605 and planning intervention based on the assessment.

(F) Classroom management techniques.

(G) Methods of teaching the subject fields.

(2) Pass the teaching performance assessment as set forth in Section 44320.2.

(A) An intern participating in the early completion option may take the teaching performance assessment only one time as part of the early completion option. An intern who takes the teaching performance assessment but is not successful may complete his or her internship program. Scores on this assessment shall be used by the internship programs in providing the individualized professional development plan for interns that emphasizes preparation in areas where additional growth is warranted and waiving preparation in areas where the candidate has demonstrated competence. The intern must retake and pass the teaching performance assessment at the end of the internship in order to be considered for recommendation by the internship program to the commission.

(B) Pending implementation of the teaching performance assessment, an internship program shall provide for early recommendation of an intern for a preliminary multiple subject teaching credential, single subject teaching credential, or level 1 education specialist credential that authorizes instruction to individuals with mild to moderate disabilities, based upon demonstrated competence of the field experience component of the internship program.

(3) Pass the reading instruction competence assessment described in Section 44283, unless the written assessment adopted by the commission pursuant to paragraph (1) is validated as covering content equivalent to the reading assessment.

(4) Meet the requirements for teacher fitness as set forth in Sections 44339, 44340, and 44341.

(b) An intern who chooses the early completion option must first pass the assessment required pursuant to paragraph (1) of subdivision (a) in order to qualify to take the teaching performance assessment required pursuant to paragraph (2) of subdivision (a). Individuals who have passed the written assessment may receive individualized support within the cohort group of like individuals in preparation for the teaching performance assessment.

(c) An intern who challenges the teacher preparation coursework by taking the assessment described in paragraph (1) of subdivision (a), but is not successful in passing the assessment, may complete his or her full internship program. Scores on this assessment shall be used by the internship program in providing the individualized professional development plan for interns that emphasizes preparation in areas where additional growth is warranted and waiving preparation areas where the intern has demonstrated competence.

(d) An intern who passes the assessments described in subdivision (a) and is recommended by the internship program to the commission is eligible for a five-year preliminary multiple subject teaching credential, single subject teaching credential, or level 1 education specialist credential that authorizes instruction to individuals with mild to moderate disabilities.

(e) The commission shall issue a professional clear multiple or single subject teaching credential to an applicant whose employing public school district documents, in a manner prescribed by the commission, that he or she has fulfilled the following requirements:

(1) Holds a preliminary five-year teaching credential issued by the commission.

(2) Completes one of the following in accordance with the determination of the employing public school district based upon the experience and individual needs of the applicant:

(A) A program of beginning teacher support and assessment established pursuant to Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 24, including the California formative assessment and support system for teachers.

(B) An alternative program of beginning teacher induction that the commission determines, in conjunction with the Superintendent of Public Instruction, meets state standards for teacher induction and includes the

California formative assessment and support system for teachers or an alternative assessment deemed to meet the standards.

(3) As an alternative to the requirements in paragraph (2), an applicant may choose to complete the California formative assessment and support system for teachers or the equivalent at a faster pace as determined by the Beginning Teacher Support and Assessment System program.

SEC. 72. Section 49561 of the Education Code is amended to read:

49561. (a) The department shall create a computerized data-matching system using existing databases from the department and the State Department of Health Services to directly certify recipients of the Food Stamp Program, the California Work Opportunity and Responsibility to Kids program (the CalWORKs program) (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), and other programs authorized for direct certification under federal law, for enrollment in the National School Lunch and School Breakfast Programs. This subdivision does not include Medi-Cal benefits within the criteria for direct certification specified in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265).

(b) The department shall design a process using an existing agency database that will conform with data from the State Department of Health Services to meet the direct certification requirements of the National School Lunch Act, as amended, pursuant to Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code, and the Child Nutrition Act of 1966, as amended, pursuant to Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

(c) The department shall design a process using computerized data pursuant to subdivision (a) that will maximize enrollment in school meal programs and improve program integrity while ensuring that pupil privacy safeguards remain in place.

(d) (1) Each state agency identified in subdivision (a) is responsible for the maintenance and protection of data received by their respective agency. The state agency that possesses the data shall follow privacy and confidentiality procedures consistent with all applicable state and federal law.

(2) Notwithstanding Section 10850 of the Welfare and Institutions Code, data that identify applicants for, or recipients of, public social services, may be transferred from existing databases maintained by the State Department of Health Services, in order to directly certify recipients of the Food Stamp Program, the CalWORKs program, and other programs authorized for direct certification under federal law, in compliance with subdivision (a). The Legislature hereby finds and declares that this paragraph is declaratory of existing law.

(e) The department shall determine the availability of and request or apply for, as appropriate, federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

(f) This section shall become operative upon receipt of federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

SEC. 73. Section 51221.4 of the Education Code is amended to read:

51221.4. (a) The Legislature encourages instruction in the area of social sciences, as required pursuant to subdivision (b) of Section 51220, which may include instruction on the Vietnam war including the "Secret War" in Laos and the role of Southeast Asians in that war. The Legislature encourages that this instruction include, but not be limited to, a component drawn from personal testimony, especially in the form of oral or video history of Southeast Asians who were involved in the Vietnam war and those men and women who contributed to the war effort on the homefront. The oral histories used as a part of the instruction regarding the role of Southeast Asians in the Vietnam war and the "Secret War" in Laos shall exemplify the personal sacrifice and courage of the wide range of ordinary citizens who were called upon to participate and provide intelligence for the United States. The oral histories shall contain the views and comments of their subjects regarding the reasons for their participation in the war. These oral histories shall also solicit comments from their subjects regarding the aftermath of the war and the immigration of Southeast Asians to the United States.

(b) This section shall be carried out in a manner that does not result in any new duties or programs being imposed on the school district. In that regard, the Legislature finds and declares that this section does not mandate costs to local agencies or school districts and that materials used to comply with this section shall be part of normal curriculum materials purchased by school districts in their normal course of business and purchasing cycles.

SEC. 74. Section 51251 of the Education Code is amended to read:

51251. (a) A governing board of a school district and a county office of education may undertake any or all of the following in order to properly address the needs of military dependents:

(1) Establish a course credit transfer policy for schoolage military dependents provided that, under the policy, the military dependents would still substantially meet the graduation requirements prescribed by the governing board. A school district may require a military dependent, within reason, to meet the graduation requirements of the district, established pursuant to paragraph (2) of subdivision (a) of Section 51225.3, that are in addition to state graduation requirements.

(2) Provide early entry transfer, pretranscript evaluation, pupil support services, and other similar assistance to aid schoolage military dependents in meeting graduation requirements.

(b) A governing board of a school district may take the actions described in subdivision (a) if both of the following circumstances have been met:

(1) The parent or legal guardian of the military dependent is serving on active duty or has been discharged from military service within the last year.

(2) The transfer of the military dependent to a new school is the direct result of a military transfer or discharge of the parent or legal guardian of the dependent.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Early entry transfer" means that a pupil shall have completed the transfer process prior to arriving on the campus of the school to which the pupil is transferring and that upon arrival at the school to which the pupil is transferring, the pupil shall be able to attend his or her assigned classes and participate in his or her desired extracurricular activities, if the pupil meets the eligibility requirements for those activities.

(2) "Pretranscript evaluation" means that the school to which the pupil is transferring shall review the coursework-to-date of the pupil, including any unofficial transcripts, prior to the receipt of official transcripts or the arrival of the pupil. This evaluation process shall be designed to clarify any questions about the placement of the pupil in classes at the school to which the pupil is transferring and shall include communication with school counselors and teachers at the school from which the pupil is transferring by any or all of the following means: videoconferencing, e-mail correspondence, and telephone calls.

SEC. 75. Section 51871.5 of the Education Code is amended to read:

51871.5. (a) It is the intent of the Legislature that education technology planning be accomplished in the most comprehensive manner possible. To that end, the current practice of developing education technology plans for each funding program should be replaced with a comprehensive local planning process that will enable school districts to apply for grants on an ongoing basis and assist in utilizing available education technology programs.

(b) On or after January 1, 2005, as a precondition to receiving a technology grant administered by the department, a school district shall have a current three- to five-year education technology plan. The state board may waive this requirement if it determines that the applicant school district made a good faith effort to develop a plan, but for reasons

beyond its control, the district cannot develop the plan before receipt of the technology grant.

(c) On or before July 1, 2007, the Superintendent shall develop guidelines and criteria for inclusion in the education technology plan required pursuant to subdivision (b). The guidelines and criteria shall include a component to educate pupils and teachers on the appropriate and ethical use of information technology in the classroom, Internet safety, the manner in which to avoid committing plagiarism, the concept, purpose, and significance of a copyright so that pupils are equipped with the skills necessary to distinguish lawful from unlawful online downloading, and the implications of illegal peer-to-peer network file sharing.

A school district that, on July 1, 2008, has a current three- to five-year education technology plan that complies with subdivision (b) is not required to comply with this subdivision until after its plan expires or is voluntarily replaced.

(d) On or after January 1, 2005, the Superintendent shall ensure that each school district has access to technical assistance and an approved online technology plan builder that the department determines is in compliance with state and federal requirements.

(e) The department shall maintain a record of school districts that have a three- to five-year education technology plan and shall make that information available to interested public agencies.

SEC. 76. Section 52052 of the Education Code is amended to read:

52052. (a) (1) The Superintendent, with approval of the state board, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils.

(2) A school shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school, including:

(A) Ethnic subgroups.

(B) Socioeconomically disadvantaged pupils.

(C) English language learners.

(D) Pupils with disabilities.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that meets both of the following criteria:

(i) The subgroup consists of at least 50 pupils each of whom has a valid test score.

(ii) The subgroup constitutes at least 15 percent of the total population of pupils at a school who have valid test scores.

(B) If a subgroup does not constitute 15 percent of the total population of pupils at a school who have valid test scores, the subgroup may

constitute a numerically significant pupil subgroup if it has at least 100 valid test scores.

(C) For a school with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant subgroups shall be defined by the Superintendent, with approval by the state board.

(4) The API shall consist of a variety of indicators currently reported to the department, including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) The number of pupils who graduated on time for the current school year, which is considered to be three school years after the pupils entered 9th grade for the first time, divided by the total calculated in clause (ii).

(ii) The number of pupils entering 9th grade for the first time in the school year three school years prior to the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was three school years prior to the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was three school years prior to the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(B) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group. Only the test scores of pupils who were counted as part of the enrollment in the annual data collection of the California Basic Educational Data System for the current fiscal year and who were continuously enrolled during that year may be included in the test result reports in the API score of the school. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(C) Before including high school graduation rates and attendance rates in the API, the Superintendent shall determine the extent to which the data are currently reported to the state and the accuracy of the data. Notwithstanding any other provision of law, graduation rates for pupils in dropout recovery high schools shall not be included in the API. For purposes of this subparagraph, “dropout recovery high school” means

a high school in which 50 percent or more of its pupils have been designated as dropouts pursuant to the exit/withdrawal codes developed by the department.

(D) The Superintendent shall provide an annual report to the Legislature on the graduation and dropout rates in California and shall make the same report available to the public. The report shall be accompanied by the release of publicly accessible data for each school district and school in a manner that provides for disaggregation based upon socioeconomically disadvantaged pupils and numerically significant subgroups scoring below average on statewide standards-aligned assessments. In addition, the data shall be made available in a manner that provides for comparisons of a minimum of three years of data.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test designated pursuant to Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(4) The high school exit examination.

(c) Based on the API, the Superintendent shall develop, and the state board shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the state board pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between the actual API score of a school and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the state board may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant pupil subgroups, as defined in subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the state board, the Superintendent shall recommend, and the state board shall adopt, a statewide API performance target that includes consideration of

performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools must, at a minimum, meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The state board may establish additional criteria that schools must meet to be eligible for the Governor's Performance Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school with 11 to 99 pupils with valid test scores shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school shall annually receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the performance of the school for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the API score of the school are not representative of the pupil population at the school.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school has fewer than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be calculated over more than one annual administration of the tests administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, consistent with regulations adopted by the state board.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) The Superintendent, with the approval of the state board, shall develop an alternative accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools pursuant to Section 56366, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools.

Schools in the alternative accountability system may receive an API score, but shall not be included in the API rankings.

SEC. 77. Section 52055.730 of the Education Code is amended to read:

52055.730. (a) The Superintendent shall identify and invite school districts and chartering authorities that have eligible schools to participate in the program established under this article.

(b) The Superintendent shall notify school districts and chartering authorities at the earliest possible date of all of the following:

(1) Schoolsites in the district or of a chartering authority that are eligible to receive funding pursuant to this article.

(2) The program and accountability requirements for schools that receive funding pursuant to this article.

(3) The deadlines for the submission of documents necessary to receive funding pursuant to this article.

(4) Any other information the Superintendent deems necessary to implement this article.

(c) The Superintendent shall specify the manner in which school districts and chartering authorities shall submit applications to receive funding pursuant to this article. It is the intent of the Legislature that this submission process be as simple as possible, use easily available data, and include the requirements of this article.

(d) On or before June 30, 2007, the Superintendent, in consultation with interested parties, shall develop a uniform process that can be used to calculate average experience for purposes of reporting, analyzing, or evaluating the distribution of classroom teaching experience in grades, schoolsites, or subjects across the district. The uniform process shall include an index that uses the 2005–06 California Basic Educational Data System (CBEDS) Professional Assignment Information Form (PAIF), including any necessary corrections, as the base-reporting year to evaluate annual improvements of the funded schools toward balancing the index of teaching experience. The index shall be approved by the Superintendent. The uniform process shall designate teaching experience beyond 10 years as 10 years.

(e) The Superintendent shall make applications submitted pursuant to subdivision (c) available for review by the secretary. The Superintendent and the secretary shall review the applications and select the schools for recommendation to the state board within 30 days after the date the application is submitted to the Superintendent.

(f) After reviewing applications submitted pursuant to subdivision (c), the Superintendent and the secretary, jointly, shall submit their recommendations for schools to be funded to the state board for approval. The recommendations shall ensure a wide geographic distribution of

funded schools across urban, rural, and suburban areas of the state. Schools selected should also represent a diverse distribution of grade levels. If the Superintendent and the secretary cannot complete the review and recommendation process in the time provided, the Superintendent shall submit recommendations to the board.

(g) To the maximum extent possible the Superintendent, the secretary, and the state board shall recommend and approve sufficient schools to use all available funds. A school selected in the first year shall continue in the program unless it is terminated pursuant to subdivision (c) of Section 52055.740, it declines to participate, or there is evidence of fraud or fiscal irregularities.

(h) In approving the recommendations for funding from the Superintendent and the secretary, the state board shall also verify that the funded schools represent the required balance, geographic distribution, and diverse distribution of grade levels.

(i) The Superintendent shall perform the duties of a county superintendent of schools pursuant to this article for funded schools in those counties in which a single school district operates. The Superintendent may delegate this responsibility to a county superintendent of schools in the region in which the single district county is located.

(j) The Superintendent and the secretary may select not more than two county offices of education to provide regional technical support, document best practices, and provide information regarding those practices and other support information to schools, school districts, and chartering authorities. It is the intent of the Legislature that these activities be merged to the maximum extent feasible with other state and federally funded activities with similar requirements.

SEC. 78. Section 52055.770 of the Education Code is amended to read:

52055.770. (a) School districts and chartering authorities shall receive funding at the following rate, on behalf of funded schools:

(1) For kindergarten and grades 1 to 3, inclusive, five hundred dollars ($500) per enrolled pupil in funded schools.

(2) For grades 4 to 8, inclusive, nine hundred dollars ($900) per enrolled pupil in funded schools.

(3) For grades 9 to 12, inclusive, one thousand dollars ($1,000) per enrolled pupil in funded schools.

(b) For purposes of subdivision (a), enrollment of a pupil in a funded school in the prior fiscal year shall be based on data from the CBEDS. For the 2007–08 fiscal year, the funded rates shall be reduced to reflect the percentage difference in the total amounts appropriated for purposes

of this section in that year compared to the amounts appropriated for purposes of this section in the 2008–09 fiscal year.

(c) The following amounts are hereby appropriated from the General Fund for the purposes set forth in subdivision (f):

(1) For the 2007–08 fiscal year, three hundred million dollars ($300,000,000), to be allocated as follows:

(A) Thirty-two million dollars ($32,000,000) for transfer by the Controller to Section B of the State School Fund for allocation by the Chancellor of the California Community Colleges to community colleges for the purpose of providing funding to the community colleges to improve and expand career technical education in public secondary education and lower division public higher education pursuant to Section 88532, including the hiring of additional faculty to expand the number of career technical education programs and course offerings.

(B) Two hundred sixty-eight million dollars ($268,000,000) for transfer by the Controller to Section A of the State School Fund for allocation by the Superintendent pursuant to this article.

(2) For each of the 2008–09 to 2013–14 fiscal years, inclusive, four hundred fifty million dollars ($450,000,000) per fiscal year, to be allocated as follows:

(A) Forty-eight million dollars ($48,000,000) for transfer by the Controller to Section B of the State School Fund for allocation by the Chancellor of the California Community Colleges to community colleges as required under subdivision (e).

(B) Four hundred two million dollars ($402,000,000) for transfer by the Controller to Section A of the State School Fund for allocation by the Superintendent pursuant to this article.

(d) For the 2013–14 fiscal year the amounts appropriated under subdivision (c) shall be adjusted to reflect the total fiscal settlement agreed to by the parties in California Teachers Association, et al. v. Arnold Schwarzenegger (Case Number 05CS01165 of the Superior Court for the County of Sacramento) and the sum of all fiscal years of funding provided to fund this article shall not exceed the total funds agreed to by those parties. This annual appropriation shall continue to be made until the Director of Finance reports to the Legislature, along with all proposed adjustments to the Governor's Budget pursuant to Section 13308 of the Government Code, that the sum of appropriations made and allocated pursuant to subdivision (c) equals the total outstanding balance of the minimum state educational funding obligation to school districts and community college districts required by Section 8 of Article XVI of the California Constitution and Chapter 213 of the Statutes of 2004 for the 2004–05 and 2005–06 fiscal years, as determined in subdivision (a) or (b) of Section 41207.1.

(e) The sum transferred under subparagraph (A) of paragraph (2) of subdivision (c) shall be allocated by the Chancellor of the California Community Colleges as follows:

(1) Thirty-eight million dollars ($38,000,000) to the community colleges for the purpose of providing funding to the community colleges to improve and expand career technical education in public secondary education and lower division public higher education pursuant to Section 88532, including the hiring of additional faculty to expand the number of career technical education programs and course offerings.

(2) Ten million dollars ($10,000,000) to the community colleges for the purpose of providing one-time block grants to community college districts to be used for one-time items of expenditure, including, but not limited to, the following purposes:

(A) Physical plant, scheduled maintenance, deferred maintenance, and special repairs.

(B) Instructional materials and support.

(C) Instructional equipment, including equipment related to career-technical education, with priority for nursing program equipment.

(D) Library materials.

(E) Technology infrastructure.

(F) Hazardous substances abatement, cleanup, and repair.

(G) Architectural barrier removal.

(H) State-mandated local programs.

(3) The Chancellor of the California Community Colleges shall allocate the amount allocated pursuant to paragraph (2) to community college districts on an equal amount per actual full-time-equivalent student (FTES) reported for the prior fiscal year, except that each community college district shall be allocated an amount not less than fifty thousand dollars ($50,000), and the equal amount per unit of FTES shall be computed accordingly.

(4) Funds allocated under paragraph (2) shall supplement and not supplant existing expenditures and may not be counted as the district contribution for physical plant projects and instructional material purchases funded in Item 6870-101-0001 of Section 2.00 of the annual Budget Act.

(f) The appropriations made under subdivision (c) are for the purpose of discharging in full the minimum state educational funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution and Chapter 213 of the Statutes of 2004 for the 2004–05 fiscal year, and the outstanding maintenance factor for the 2005–06 fiscal year resulting from this additional payment of the Chapter 213 amount for the 2004–05 fiscal year.

(g) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, including computation of the state's minimum funding obligation to school districts and community college districts in subsequent fiscal years, the first one billion six hundred twenty million nine hundred twenty-eight thousand dollars ($1,620,928,000) in appropriations made pursuant to subdivision (c) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 and "General Fund Revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202, for the 2004–05 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year. The remaining appropriations made pursuant to subdivision (c) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 and "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202, for the 2005–06 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

(h) From funds appropriated under subdivision (c), the Superintendent shall provide both of the following:

(1) Not more than two million dollars ($2,000,000) annually to county superintendents of schools to carry out the requirements of this article, allocated in a manner similar to that created to carry out the new duties of those superintendents under the settlement agreement in the case of Williams v. California (Super. Ct. San Francisco, No. CGC-00-312236).

(2) Five million dollars ($5,000,000) in the 2007–08 fiscal year to support regional assistance under Section 52055.730. It is the intent of the Legislature that the Superintendent and the secretary, along with county offices of education, seek foundational and other financial support to sustain and expand these services. Funds provided under this paragraph that are not expended in the 2007–08 fiscal year shall be reappropriated for use in subsequent fiscal years for the same purpose.

(i) Notwithstanding any other provision of law, funds appropriated under subdivision (c) but not allocated to schools with kindergarten or grades 1 to 12, inclusive, in a fiscal year, due to program termination in any year or otherwise, shall be available for reappropriation only in furtherance of the purposes of this article. First priority for those amounts shall be to provide cost-of-living increases and enrollment growth adjustments to funded schools.

(j) The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the State Department of Education to fund 3.0 positions to implement this article. Funding provided under this subdivision is not part of funds provided pursuant to subdivision (c).

SEC. 79. Section 60640 of the Education Code, as amended by Section 5 of Chapter 676 of the Statutes of 2005, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2007–08 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the state board pursuant to Section 60642 and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (16) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other provision of law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 3 to 11, inclusive, pursuant to the process used for designation of the assessment chosen

in the 1997–98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In selecting a contractor to develop a primary language assessment, the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 3 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(2) The state board shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section

60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 3 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 3 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(*l*) The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 80. 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 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 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 Program test, high school exit examination, and English language development tests.

(2) Pupil achievement data from assessments administered pursuant to the STAR Program, 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 Program 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, with approval of the state board, to comply with the federal reporting requirements delineated in the 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 Program 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 Program 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 (20 U.S.C. Sec. 1232g), Section 1242h of Title 20 of the United States Code, 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, 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 (d) 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 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.

SEC. 81. 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 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) 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 employee 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 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 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. 82. Section 87040.5 of the Education Code is amended 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 paragraph (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 Section 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 of the following:

(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.

SEC. 83. Section 782 of the Evidence Code is amended to read:

782. (a) In any of the circumstances described in subdivision (c), if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness under Section 780, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

(2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated. The affidavit shall be filed under seal and only unsealed by the court to determine if the offer of proof is sufficient to order a hearing pursuant to paragraph (3). After that determination, the affidavit shall be resealed by the court.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant pursuant to Section 780, and is not inadmissible pursuant to Section 352, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(5) An affidavit resealed by the court pursuant to paragraph (2) shall remain sealed, unless the defendant raises an issue on appeal or collateral review relating to the offer of proof contained in the sealed document. If the defendant raises that issue on appeal, the court shall allow the Attorney General and appellate counsel for the defendant access to the sealed affidavit. If the issue is raised on collateral review, the court shall

allow the district attorney and defendant's counsel access to the sealed affidavit. The use of the information contained in the affidavit shall be limited solely to the pending proceeding.

(b) As used in this section, "complaining witness" means:

(1) The alleged victim of the crime charged, the prosecution of which is subject to this section, pursuant to paragraph (1) of subdivision (c).

(2) An alleged victim offering testimony pursuant to paragraph (2) or (3) of subdivision (c).

(c) The procedure provided by subdivision (a) shall apply in any of the following circumstances:

(1) In a prosecution under Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit any crime defined in any of those sections, except if the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4 of the Penal Code, or in the state prison, as defined in Section 4504.

(2) When an alleged victim testifies pursuant to subdivision (b) of Section 1101 as a victim of a crime listed in Section 243.4, 261, 261.5, 269, 285, 286, 288, 288a, 288.5, 289, 314, or 647.6 of the Penal Code, except if the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4 of the Penal Code, or in the state prison, as defined in Section 4504 of the Penal Code.

(3) When an alleged victim of a sexual offense testifies pursuant to Section 1108, except if the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4 of the Penal Code, or in the state prison, as defined in Section 4504 of the Penal Code.

SEC. 84. Section 1117 of the Evidence Code is amended to read:

1117. (a) Except as provided in subdivision (b), this chapter applies to a mediation as defined in Section 1115.

(b) This chapter does not apply to either of the following:

(1) A proceeding under Part 1 (commencing with Section 1800) of Division 5 of the Family Code or Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.

(2) A settlement conference pursuant to Rule 3.1380 of the California Rules of Court.

SEC. 85. Section 177 of the Family Code is amended to read:

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, 2007:

(1) Paragraph (7) of subdivision (b) of Rule 5.530.

(2) Subdivision (i) of Rule 5.534.

(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.

SEC. 86. Section 216 of the Family Code is amended to read:

216. (a) In the absence of a stipulation by the parties to the contrary, there shall be no ex parte communication between the attorneys for any party to an action and any court-appointed or court-connected evaluator or mediator, or between a court-appointed or court-connected evaluator or mediator and the court, in any proceedings under this code, except with regard to the scheduling of appointments.

(b) There shall be no ex parte communications between counsel appointed by the court pursuant to Section 3150 and any court-appointed or court-connected evaluator or mediator, except where it is expressly authorized by the court or undertaken pursuant to paragraph (5) of subdivision (c) of Section 3151.

(c) Subdivisions (a) and (b) shall not apply in the following situations:

(1) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Sections 3113, 3181, and 3192.

(2) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Rule 5.215 of the California Rules of Court.

(3) If the mediator or evaluator determines that ex parte communication is needed to inform the court of his or her belief that a restraining order is necessary to prevent an imminent risk to the physical safety of the child or the party.

(d) Nothing in this section shall be construed to limit the responsibilities a mediator or evaluator may have as a mandated reporter pursuant to Section 11165.9 of the Penal Code or the responsibilities a mediator or evaluator may have to warn under Tarasoff v. Regents of the University of California (1976) 17 Cal.3d 425, Hedlund v. Superior Court (1983) 34 Cal.3d 695, and Section 43.92 of the Civil Code.

(e) The Judicial Council shall, by July 1, 2006, adopt a rule of court to implement this section.

SEC. 87. Section 291 of the Family Code is amended to read:

291. (a) A money judgment or judgment for possession or sale of property that is made or entered under this code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied.

(b) A judgment described in this section is exempt from any requirement that a judgment be renewed. Failure to renew a judgment described in this section has no effect on the enforceability of the judgment.

(c) A judgment described in this section may be renewed pursuant to Article 2 (commencing with Section 683.110) of Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure. An application for renewal of a judgment described in this section, whether or not payable in installments, may be filed:

(1) If the judgment has not previously been renewed as to past due amounts, at any time.

(2) If the judgment has previously been renewed, the amount of the judgment as previously renewed and any past due amount that became due and payable after the previous renewal may be renewed at any time after a period of at least five years has elapsed from the time the judgment was previously renewed.

(d) In an action to enforce a judgment for child, family, or spousal support, the defendant may raise, and the court may consider, the defense of laches only with respect to any portion of the judgment that is owed to the state.

(e) Nothing in this section supersedes the law governing enforcement of a judgment after the death of the judgment creditor or judgment debtor.

(f) On or before January 1, 2008, the Judicial Council shall develop self-help materials that include: (1) a description of the remedies available for enforcement of a judgment under this code, and (2) practical advice on how to avoid disputes relating to the enforcement of a support obligation. The self-help materials shall be made available to the public through the Judicial Council self-help Internet Web site.

(g) As used in this section, "judgment" includes an order.

SEC. 88. Section 1816 of the Family Code is amended to read:

1816. (a) For purposes of this section, the following definitions apply:

(1) "Eligible provider" means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts, or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.

(2) "Evaluator" means a supervising or associate counselor described in Section 1815, a mediator described in Section 3164, a court-connected or private child custody evaluator described in Section 3110.5, or a court-appointed investigator or evaluator as described in Section 3110 or Section 730 of the Evidence Code.

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

(1) The effects of domestic violence on children.

(2) The nature and extent of domestic violence.

(3) The social and family dynamics of domestic violence.

(4) Techniques for identifying and assisting families affected by domestic violence.

(5) Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the family being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

(A) Maximizing safety for clients, evaluators, and court personnel.

(B) Maintaining objectivity.

(C) Providing and gathering balanced information from the parties and controlling for bias.

(D) Providing separate sessions at separate times as described in Section 3113.

(E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

(A) Shelters for battered women.

(B) Counseling, including drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

(A) Certified treatment programs described in Section 1203.097 of the Penal Code.

(B) Drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(5) The unique issues in a family and psychological assessment in a domestic violence case, including all of the following:

(A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential family dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.

(B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.

(C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.

(D) The assessment of family history based on the type, severity, and frequency of violence.

(E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.

(F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.

(G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.

(H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.

(I) The importance of and procedures for obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.

(J) Accepted methods for structuring safe and enforceable child custody and parenting plans that ensure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against a family member.

(e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:

(1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.

(2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.

(f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:

(1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.

(2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.

(3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.

(4) Develop a procedure to verify that an evaluator completes the education and training program.

(5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

(g) (1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1), an evaluator shall attach copies of his or her certificates of completion of the training described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and

shall seek to develop training programs that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

SEC. 89. Section 5614 of the Family Code is amended to read:

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 disbursed 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.

SEC. 90. Section 8623 of the Family Code is amended to read:

8623. A person or organization is an adoption facilitator if the person or organization is not licensed as an adoption agency by the State of California and engages in either of the following activities:

(a) Advertises for the purpose of soliciting parties to an adoption or locating children for an adoption or acting as an intermediary between the parties to an adoption.

(b) Charges a fee or other valuable consideration for services rendered relating to an adoption.

SEC. 91. Section 8632.5 of the Family Code is amended to read:

8632.5. (a) The department shall establish and adopt regulations for a statewide registration process for adoption facilitators. The department shall also establish and adopt regulations to require adoption facilitators to post a bond as required by this section.

(b) The department may adapt the process it uses to register adoption service providers in order to provide a similar registration process for adoption facilitators. The process used by the department shall include a procedure for determining the status of bond compliance by adoption facilitators, a means for accepting or denying organizations seeking inclusion in the adoption facilitator registry, and an appeals process for those entities denied inclusion in the adoption facilitator registry. The department may deny inclusion in the registry for adoption facilitators to an applicant who has been convicted of any crime for which the department may deny a license to an adoption agency.

(c) Upon the establishment by the department of a registration process, all adoption facilitators that operate independently from a licensed public or private adoption agency or an adoption attorney in this state shall be required to register with the department.

(d) An adoption facilitator, when posting a bond, shall also file with the department a disclosure form containing the adoption facilitator's name, date of birth, residence address, business address, residence telephone number, business telephone number, and the number of adoptions facilitated for the previous year. Along with the disclosure form, the adoption facilitator shall provide all of the following information to the department:

(1) Proof that the facilitator and any member of the staff who provides direct adoption services has completed two years of college courses, with at least half of the units and hours focusing on social work or a related field.

(2) Proof that the facilitator and any member of the staff who provides direct adoption services has a minimum of three years of experience employed by a public or private adoption agency, a registered adoption facilitator, or an adoption attorney who assists in bringing adopting persons and placing parents together for the purpose of adoption placement.

(A) An adoption facilitator and any member of the staff subject to this paragraph may waive the educational and experience requirements by satisfying all of the following requirements:

(i) He or she has over five years of work experience providing direct adoption services.

(ii) He or she has not been found liable of malfeasance in connection with providing adoption services.

(iii) He or she provides three separate letters of support attesting to his or her ethics and work providing direct adoption services from any of the following:

(I) A licensed public or private adoption agency.

(II) A member of the Academy of California Adoption Lawyers.

(III) The State Department of Social Services.

(B) An adoption facilitator who is registered with the department may also register staff members under the designation of "trainee." A trainee may provide direct adoption services without meeting the requirements of this paragraph. Any trainee registered with the department shall be directly supervised by an individual who meets all registration requirements.

(3) A valid business license.

(4) A valid, current, government-issued identification to determine the adoption facilitator's identity, such as a California driver's license, identification card, passport, or other form of identification that is acceptable to the department.

(5) Fingerprint images for a background check to be used by the department for the purposes described in this section.

(e) The State Department of Social Services may submit fingerprint images of adoption facilitators to the Department of Justice for the purpose of obtaining criminal offender record information regarding state-and federal-level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(1) The Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(2) The Department of Justice shall provide a response to the department pursuant to subdivision (n) of Section 11105 of the Penal Code.

(3) The department shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(4) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

(f) The department may impose a fee upon applicants for each set of classifiable fingerprint cards that it processes pursuant to paragraph (5) of subdivision (d).

(g) The department shall post on its Internet Web site information that shows if an adoption facilitator is in compliance with the registration and bond requirements of this chapter. The department shall ensure that the information is current and shall update the information at least once every 30 days. However, pursuant to the provisions of Section 11142 of the Penal Code, neither the department nor any employee of the department shall reveal the state summary criminal history record or any information from the record to a member of the public.

(h) The department shall develop the disclosure form required pursuant to subdivision (d) and shall make it available to any adoption facilitator posting a bond.

(i) The department may charge adoption facilitators an annual filing fee to recover all costs associated with the requirements of this section and that fee shall be set by regulation.

(j) The department may create an Adoption Facilitator Account for deposit of fees received from registrants.

(k) On or before January 1, 2008, the department shall make recommendations for the registry program to the Legislature, including a recommendation on how to implement a department program to accept and compile complaints against registered adoption facilitators and to provide public access to those complaints, by specific facilitator, through the department's Internet Web site.

(*l*) The adoption facilitator registry established pursuant to this section shall become operative on the first day of the first month following an appropriation from the Adoption Facilitator Account to the State Department of Social Services for the startup costs and the costs of administration of the adoption facilitator registry.

SEC. 92. 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 completed 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 State 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 State 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. 93. Section 9205 of the Family Code is amended to read:

9205. (a) Notwithstanding any other law, the department or adoption agency that joined in the adoption petition shall release the names and addresses of siblings to one another if both of the siblings have attained 18 years of age and have filed the following with the department or agency:

(1) A current address.

(2) A written request for contact with any sibling whose existence is known to the person making the request.

(3) A written waiver of the person's rights with respect to the disclosure of the person's name and address to the sibling, if the person is an adoptee.

(b) Upon inquiry and proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department or agency may advise the sibling that a waiver has been filed by the adoptee. The department or agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(c) An adoptee may revoke a waiver filed pursuant to this section by giving written notice of revocation to the department or agency.

(d) The department shall adopt a form for the request authorized by this section. The form shall provide for an affidavit to be executed by a person seeking to employ the procedure provided by this section that, to the best of the person's knowledge, the person is an adoptee or sibling of an adoptee. The form also shall contain a notice of an adoptee's rights pursuant to subdivision (c) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring any additional means of identification from a person making a request pursuant to this section as it deems necessary.

(e) The department or agency may not solicit the execution of a waiver authorized by this section. However, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication appropriate to inform the public effectively.

(f) Notwithstanding the age requirement described in subdivision (a), an adoptee or sibling who is under 18 years of age may file a written waiver of confidentiality for the release of his or her name, address, and telephone number pursuant to this section provided that, if an adoptee, the adoptive parent consents, and, if a sibling, the sibling's legal parent or guardian consents. If the sibling is under the jurisdiction of the dependency court and has no legal parent or guardian able or available to provide consent, the dependency court may provide that consent.

(g) Notwithstanding subdivisions (a) and (e), an adoptee or sibling who seeks contact with the other for whom no waiver is on file may

petition the court to appoint a confidential intermediary. If the sibling being sought is the adoptee, the intermediary shall be the department or licensed adoption agency that provided adoption services as described in Section 8521 or 8533. If the sibling being sought was formerly under the jurisdiction of the juvenile court, but is not an adoptee, the intermediary shall be the department, the county child welfare agency that provided services to the dependent child, or the licensed adoption agency that provided adoption services to the sibling seeking contact, as appropriate. If the court finds that the licensed adoption agency that conducted the adoptee's adoption is unable, due to economic hardship, to serve as the intermediary, then the agency shall provide all records related to the adoptee or the sibling to the court and the court shall appoint an alternate confidential intermediary. The court shall grant the petition unless it finds that it would be detrimental to the adoptee or sibling with whom contact is sought. The intermediary shall have access to all records of the adoptee or the sibling and shall make all reasonable efforts to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent, as required to make the disclosure authorized by this section. The confidential intermediary shall notify any located adoptee, sibling, or adoptive or birth parent that consent is optional, not required by law, and does not affect the status of the adoption. If that individual denies the request for consent, the confidential intermediary shall not make any further attempts to obtain consent. The confidential intermediary shall use information found in the records of the adoptee or the sibling for authorized purposes only, and may not disclose that information without authorization. If contact is sought with an adoptee or sibling who is under 18 years of age, the confidential intermediary shall contact and obtain the consent of that child's legal parent before contacting the child. If the sibling is under 18 years of age, under the jurisdiction of the dependency court, and has no legal parent or guardian able or available to provide consent, the intermediary shall obtain that consent from the dependency court. If the adoptee is seeking information regarding a sibling who is known to be a dependent child of the juvenile court, the procedures set forth in subdivision (b) of Section 388 of the Welfare and Institutions Code shall be utilized. If the adoptee is foreign born and was the subject of an intercountry adoption as defined in Section 8527, the adoption agency may fulfill the reasonable efforts requirement by utilizing all information in the agency's case file, and any information received upon request from the foreign adoption agency that conducted the adoption, if any, to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent. If that information is neither in the agency's case file, nor received from the foreign adoption agency,

or if the attempts to locate are unsuccessful, then the agency shall be relieved of any further obligation to search for the adoptee or the sibling.

(h) For purposes of this section, "sibling" means a biological sibling, half-sibling, or step-sibling of the adoptee.

SEC. 94. Section 17419 of the Financial Code is amended to read:

17419. On and after January 1, 1992, any person seeking employment with an escrow agent shall complete an employment application on or before the first day of employment which includes, at least, the following information. A copy of the employment application shall be forwarded to the commissioner on or before the first day of the applicant's employment. Persons required to file a statement of identity and questionnaire pursuant to subdivision (g) of Section 17209 or Section 17212.1 are not required to file the employment application set forth in this section. Each person completing the employment application shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY
AND EMPLOYMENT APPLICATION

Name of Escrow Company:_____

Escrow Agent License Number:_____

1. Exact Full Name:

_____

(Please Print or Type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this employment application.

_____

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

NOTE: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

NOTE: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment, or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice, or employment?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

Date of Suit:_____

Location of Court (City, County, State):_____

Nature of Suit:_____

Note: Attach a certified copy of any order, judgment, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended or revoked?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

State:_____ Title of State Department:_____

Nature of License and Number:_____

Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a crime other than minor traffic citations that do not constitute a misdemeanor or felony offense?

NOTE: A conviction is a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction also includes an order granting probation and suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 or 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty, or dismissing the accusation, information, or indictment.

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

Date of Case:_____
Location of Court (City, County, State):_____
Nature of Case:_____

Note: Attach a certified copy of any order, judgment, or decree.

7. Have you ever been a defendant in a civil court action other than divorce, condemnation, or personal injury?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

Date of Suit:_____
Location of Court (City, County, State):_____
Nature of Suit:_____

Note: Attach a certified copy of any order, judgment, or decree.

8. Have you ever changed your name or ever been known by any name other than that herein listed?

(**Including a woman's maiden name**)

( ) Yes ( ) No

If so, explain. Change in name through marriage or court order should also be listed.

EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.

_____

_____

9. Have you ever done business under a fictitious firm name either as an individual or in the partnership or corporate form?

( ) Yes ( ) No

If the answer is "Yes," set forth particulars:

_____

_____

10. Have you ever been a subject of a bankruptcy or a petition in bankruptcy?

( ) Yes ( ) No

If the answer is "Yes," give date, title of case, location of bankruptcy filing:

_____

_____

_____

11. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

( ) Yes ( ) No

If the answer is "Yes," give details:

_____

_____

12. In what capacity will you be employed? _____

(e.g., Clerk, Escrow Officer, Receptionist, etc.)

13. Do you expect to be a party to, or broker or salesperson in connection with, escrows conducted by the escrow company which is employing you?

( ) Yes ( ) No

If the answer is "Yes," please explain:

_____

_____

NOTE: Attach separate schedule if space is not adequate.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Employment Application; that I have read and signed the Statement of Identity and Employment Application and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true.

Any person who knows or should have known of a violation of this section shall immediately report the violation in writing to the commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed at_____
(City)
_____
(County) (State)
this_____day of_____, 20 __.
_____
(Signature of Declarant)

SEC. 95. Section 22168 of the Financial Code is amended to read:

22168. (a) The commissioner may, after appropriate notice and opportunity for hearing, suspend for a period not to exceed 12 months or bar a person from any position of employment with a licensee if the commissioner finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of misleading the public regarding his or her qualifications or experience.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the

commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to subdivision (a), the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under this division.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed finance lender and from engaging in any business activity on the premises where a licensed finance lender is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender.

SEC. 96. Section 5650 of the Fish and Game Code is amended to read:

5650. (a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(3) Any sawdust, shavings, slabs, or edgings.

(4) Any factory refuse, lime, or slag.

(5) Any cocculus indicus.

(6) Any substance or material deleterious to fish, plant life, mammals, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a federal permit for which the State Water Resources Control Board or a regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional authority on the State Water Resources Control Board, a regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

SEC. 97. Section 12003.2 of the Fish and Game Code is amended to read:

12003.2. Notwithstanding Section 12002 or 12008, the punishment for any violation of Section 4500 or 4700 is a fine of not more than twenty-five thousand dollars ($25,000) for each unlawful taking, imprisonment in a county jail for the period prescribed in Section 12002 or 12008, or both the fine and imprisonment.

SEC. 98. Section 13007 of the Fish and Game Code is amended to read:

13007. (a) Notwithstanding Section 13001 and paragraph (1) of subdivision (a) of Section 13005, commencing July 1, 2006, 33⅓ percent of all sport fishing license fees collected pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6, except license fees collected pursuant to Section 7149.8, shall be deposited into the Hatchery and Inland Fisheries Fund, which is hereby established in the State Treasury. Moneys in the fund may be expended, upon appropriation by the Legislature, to support programs of the Department of Fish and Game related to the management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program, and enforcement activities related thereto, and to support other activities eligible to be funded from revenue generated by sport fishing license fees.

(b) The sport fishing license fees collected and subject to appropriation pursuant to subdivision (a) shall be used for the following purposes:

(1) For the department's attainment of the following production goals for state hatcheries, based on the sales of the following types of sport fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day; 1-day; and reduced fee.

(A) By July 1, 2007, a minimum of 2.25 pounds of released trout per sport fishing license sold in 2006, 1.75 pounds of which must be of catchable size or larger.

(B) By July 1, 2008, a minimum of 2.5 pounds of released trout per sport fishing license sold in 2007, 2.0 pounds of which must be of catchable size or larger.

(C) By July 1, 2009, and thereafter, a minimum of 2.75 pounds of released trout per sport fishing license sold in 2008, 2.25 pounds of which must be of catchable size or larger.

(D) The department shall attain these goals in compliance with Fish and Game Commission trout policies concerning catchable-sized trout stocking.

(2) To the Heritage and Wild Trout Program, two million dollars ($2,000,000), which shall be used for permanent positions and seasonal aides in each region of the state as necessary, and other activities necessary to the program.

(A) The funds allocated pursuant to this paragraph shall be used to fund seven new positions for the Heritage and Wild Trout Program.

(B) In addition to the seven new positions specified in subparagraph (A), the department may hire seasonal aides in each region of the state to assist with the operations of the Heritage and Wild Trout Program.

(3) The department shall, by July 1, 2011, ensure that 25 percent of the fish produced by state fish hatcheries are used for the purpose of initiating and managing the restoration of naturally indigenous stocks of trout to their original California source watersheds. This paragraph shall not be construed to prohibit the department from using surplus fish in waters outside of their original California source watersheds. All trout restored pursuant to this paragraph shall be native California trout, as defined in Section 7261. The department shall attain the 25-percent restoration goal of this paragraph according to the following schedule:

(A) By July 1, 2009, 15 percent and at least four species, not including the coastal rainbow trout/steelhead.

(B) By July 1, 2010, 20 percent and at least four species, not including the coastal rainbow trout/steelhead.

(C) By July 1, 2011, and thereafter, 25 percent and at least five species, not including the coastal rainbow trout/steelhead.

(4) The department may hire additional staff for state fish hatcheries, in order to comply with this subdivision.

(c) The department may allocate any funds under this section, not necessary to maintain the minimums specified in paragraphs (1) and (3) of subdivision (b), and after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game Preservation Fund.

(d) The department may utilize federal funds to meet the funding formula specified in subdivision (a) if those funds are otherwise legally available for this purpose.

(e) A portion of the moneys subject to appropriation pursuant to subdivision (a) may be used for the purpose of obtaining scientifically valid genetic determinations of California native trout stocks, consistent with Theme 1 in the executive summary of the department's Strategic Plan for Trout Management, published November 2003.

(f) The department, by July 1, 2008, and annually thereafter, shall report back to the fiscal and policy committees in the Legislature on the implementation of these provisions.

SEC. 99. Section 19348.1 of the Food and Agricultural Code is amended to read:

19348.1. The State Veterinarian is authorized to approve temporary research projects for the purpose of determining whether alternative methods of animal tissue disposal are capable of destroying organisms that cause disease and can be used effectively to protect public health and agricultural animals. Temporary projects shall not be approved for a period longer than 24 months.

SEC. 100. Section 33251 of the Food and Agricultural Code is amended to read:

33251. The county that maintains an approved milk inspection service where an inspection fee is levied and collected shall determine the actual cost of making an inspection of a dairy farm that produces market milk within the area that is designated and assigned to that service by the secretary. Records of the cost determination shall be made and maintained by the county for examination by the secretary or other interested person.

SEC. 101. Section 33261 of the Food and Agricultural Code is amended to read:

33261. Charges that are made by any approved milk inspection service for inspection fees are subject to audit by the secretary, and for this purpose the secretary shall have access to all books, papers, records, or documents that pertain to any and all transactions of any approved milk inspection service and may inspect and copy them in any place within the state.

SEC. 102. Section 33262 of the Food and Agricultural Code is amended to read:

33262. Ten percent of the producers within any approved inspection area may file with the secretary a written protest as to the reasonableness of any inspection fee that is levied and collected from the producer pursuant to Section 33252.

SEC. 103. Section 33297 of the Food and Agricultural Code is amended to read:

33297. Any person subject to inspection fees provided for in Section 33291 may file with the secretary a written protest as to the reasonableness of any inspection fee that is levied and collected from those persons.

The secretary shall, after 30 days' notice, hold a hearing on the protest and upon completion of the hearing, the secretary shall make and maintain written findings as to whether or not the fee is reasonable.

SEC. 104. Section 79843 of the Food and Agricultural Code is amended and renumbered to read:

78943. (a) The commission may commence civil action and use all remedies provided in law or equity for the enforcement of this chapter, including, but not limited to, the collection of assessments, penalties, and interest, and for obtaining injunctive relief or specific performance regarding this chapter and the procedures adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other procedure of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 4 (commencing with Section 484.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 of the Code of Civil Procedure is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding winegrapes, wine, or winegrape products until there is full compliance and satisfaction of the judgment.

(d) Upon a favorable judgment for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the

domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 105. Section 905 of the Government Code is amended to read:

905. There shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) all claims for money or damages against local public entities except:

(a) Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification, or adjustment of any tax, assessment, fee, or charge or any portion thereof, or of any penalties, costs, or charges related thereto.

(b) Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers', or materialmen's liens.

(c) Claims by public employees for fees, salaries, wages, mileage, or other expenses and allowances.

(d) Claims for which the workers' compensation authorized by Division 4 (commencing with Section 3200) of the Labor Code is the exclusive remedy.

(e) Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions, or other assistance rendered for or on behalf of any recipient of any form of public assistance.

(f) Applications or claims for money or benefits under any public retirement or pension system.

(g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.

(h) Claims that relate to a special assessment constituting a specific lien against the property assessed and that are payable from the proceeds of the assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it.

(i) Claims by the state or by a state department or agency or by another local public entity or by a judicial branch entity.

(j) Claims arising under any provision of the Unemployment Insurance Code, including, but not limited to, claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.

(k) Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(*l*) Claims governed by the Pedestrian Mall Law of 1960 (Part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code).

SEC. 106. Section 6103.2 of the Government Code is amended to read:

6103.2. (a) Section 6103 does not apply to any fee or charge or expense for official services rendered by a sheriff or marshal in connection with the levy of writs of attachment, execution, possession, or sale. The fee, charge, or expense may be advanced to the sheriff or marshal, as otherwise required by law.

(b) (1) Notwithstanding Section 6103, the sheriff or marshal, in connection with the service of process or notices, may require that all fees which a public agency, or any person or entity, is required to pay under provisions of law other than this section, be prepaid by a public agency named in Section 6103, or by any person or entity, prior to the performance of any official act. This authority to require prepayment shall include fees governed by Section 6103.5.

(2) This subdivision does not apply to the service of process or notices in any action by the district attorney's office for the establishment or enforcement of a child support obligation.

(3) This subdivision does not apply to a particular jurisdiction unless the sheriff or marshal, as the case may be, imposes the requirement of prepayment upon public agencies and upon all persons or entities within the private sector.

(4) The requirement for prepayment of a fee deposit does not apply to orders or injunctions described in paragraph (1) of subdivision (q) of Section 527.6 and Section 527.8 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code (Prevention of Domestic Violence), and Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code (Elder Abuse and Dependent Adult Civil Protection Act).

However, a sheriff or marshal may submit a billing to the superior court for payment of fees in the manner prescribed by the Judicial Council irrespective of the in forma pauperis status of any party under Rules 3.50 to 3.63, inclusive, of the California Rules of Court. The fees for service, cancellation of service, and making a not found return may not exceed the amounts provided in Sections 26721, 26736, and 26738, respectively, and are subject to the provisions of Section 26731.

SEC. 107. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed eligible area has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed eligible area have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed eligible area has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed eligible area does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as an enterprise zone by the department in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "G-TEDA" means a geographically targeted economic development area, which is an area designated as an enterprise zone, a Manufacturing Enhancement Area, a targeted tax area, or a local agency military base recovery area.

(g) "High-technology industries" includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(h) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(i) (1) "Targeted employment area" means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a "targeted employment area" is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

(2) At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

(3) Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

(4) (A) Within 180 days of updated United States census data becoming available, each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, boundaries of its targeted employment area reflecting the new census data. If no changes are necessary to the boundaries based on the most current census data, the enterprise zone may send a letter to the department stating that a review has been undertaken by the respective local governmental entities and no boundary changes are required.

(B) A targeted employment area boundary approved prior to the 2000 United States census data becoming available that has not been reviewed and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.

SEC. 108. Section 7085.1 of the Government Code is amended to read:

7085.1. (a) The governing board of the G-TEDA shall report to the department by October 1, 2008, and by that date every other year thereafter, on the activities of the G-TEDA in the previous two fiscal years and its plans for the current and following fiscal year. The biennial report shall include at least both of the following:

(1) The progress the G-TEDA has made during the period covered by the report relative to its goals, objectives, and commitments set forth in its original application and the department's memorandum of understanding with the G-TEDA.

(2) Identification of the previous two years' funding, including in-kind funding. The previous two years' funding levels shall be compared to the funding levels identified in its original application and the department's memorandum of understanding with the G-TEDA, and the amount identified in the previous year's biennial report. An explanation of any meaningful discrepancies in these amounts shall be provided.

(b) A copy of the biennial report developed pursuant to subdivision (a) shall also be submitted to the legislative bodies of the local jurisdictions comprising the G-TEDA. The progress of the G-TEDA in meeting the goals, objectives, and commitments set forth in the original

application and the memorandum of understanding with the department shall be reviewed at least biennially by these legislative bodies, either as part of the approval of the G-TEDA's annual work plan or separately, at the discretion of the legislative body.

(c) (1) G-TEDAs designated prior to January 1, 2007, shall have until April 15, 2008, to update their benchmarks, goals, objectives, and funding levels for administering the G-TEDA program, in order to make them measurable and conducive to the successful completion of the economic development strategy. The local legislative body and the department shall approve the updated goals and objectives. The updated goals and objectives shall be included as an update to the existing memorandum of understanding between the G-TEDA and the department.

(2) G-TEDAs that fail to obtain approved updated goals and objectives by April 15, 2008, shall be dedesignated effective July 1, 2008. The Director of Housing and Community Development shall provide notice of prospective dedesignation to the local government no later than May 1, 2008. The director may authorize up to two 60-calendar-day extensions, if the local government and G-TEDA are acting in good faith and the additional time would allow them to meet the requirements of this subdivision. Businesses located within a G-TEDA that have been dedesignated shall continue to have access to tax incentives previously authorized within the G-TEDA pursuant to Section 7082.2.

(3) G-TEDAs designated prior to January 1, 2007, are not required to implement the biennial reporting requirements of subdivisions (a) and (b) until October 1, 2009.

(4) G-TEDAs that expire prior to January 1, 2010, are not required to meet the conditions of this subdivision.

(d) The department shall biennially make available to the Legislature information related to the progress that each G-TEDA is making toward implementing its goals, objectives, and commitments set forth in the original application, the department's memorandum of understanding with the G-TEDA, and the biennial report.

SEC. 109. 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 Department of 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) The 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. 110. Section 8610 of the Government Code is amended to read:

8610. Counties, cities and counties, and cities may create disaster councils by ordinance. A disaster council shall develop plans for meeting

any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private. The disaster council shall supply a copy of any plans developed pursuant to this section to the Office of Emergency Services. The governing body of a county, city and county, or city may, in the ordinance or by resolution adopted pursuant to the ordinance, provide for the organization, powers and duties, divisions, services, and staff of the emergency organization. The governing body of a county, city and county, or city may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.

Counties, cities and counties, and cities may enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements.

SEC. 111. The heading of Chapter 8.1 (commencing with Section 8710) of Division 1 of Title 2 of the Government Code is amended to read:

CHAPTER 8.1. CALIFORNIA-MEXICO BORDER RELATIONS COUNCIL

SEC. 112. Section 8880.325 of the Government Code is amended to read:

8880.325. The right of any person to a prize shall not be assignable, except that the payment of any prize may be assigned, in whole or in part, as provided by Section 8880.326 and this section under any of the following circumstances:

(a) An assignment executed by the prizewinner on a form approved by, and filed with, the commission during the prizewinner's lifetime in accordance with regulations adopted by the commission, to a trust that by its terms is revocable and that is established by the prizewinner for the benefit of the prizewinner as a beneficiary and governed by the laws of the state.

(b) An appropriate judicial order appointing a conservator or a guardian for the protection of the prizewinner or for adjudicating rights to, or ownership of, the prize.

(c) An assignment, as collateral, to a person to secure a loan pursuant to Division 9 (commencing with Section 9101) of the Commercial Code. The assignment as collateral of the right to receive payment of a prize shall be subject to all of the following:

(1) All security agreements, rights of the prizewinner, and rights of the secured creditor shall be determined pursuant to the laws of the state.

(2) In the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the lottery, based on the prizewinner's right to receive a regular prize payment until the obligation has been paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 (commencing with Section 9101) of the Commercial Code, the secured creditor shall not have the right to sell or assign the prizewinner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

(3) The prizewinner and secured creditor may agree, and may jointly instruct the lottery, to directly deposit all prizewinning payments into an account maintained by the prizewinner at a federally insured financial institution located within the state. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the lottery shall continue to deposit all payments due the prizewinner into the account until the lottery receives notification from both the secured creditor and the prizewinner that the payments are to be made to an account maintained at another bank or that the secured creditor releases or terminates the security interest in the prizewinner's payments.

(4) (A) The prizewinner, pursuant to an order of the court obtained in compliance with subdivision (d), may direct the lottery to make the prize payments, in whole or in part, directly to the secured creditor. A direction to the lottery to make a prize payment to a secured creditor shall not, in itself, constitute an assignment of the prize payment to the secured creditor.

(B) For purposes of this paragraph and subdivision (d), "assignee" and "secured creditor" are synonymous, and "assignment" or "prize payment" means the payment that is directed to be paid to the secured creditor.

(5) For purposes of perfecting the security interest of the secured creditor, the right of the prizewinner to receive payments is deemed to be a contract right that is perfected by the filing of a financing statement with the office of the Secretary of State.

(6) A copy of the security agreement, an endorsed copy of the financing statement, and the joint instruction to deposit the prizewinner's payments directly into an account, if any, at the financial institution shall

be filed with the lottery. Notwithstanding the security interest granted a creditor, all lottery payments shall be made payable directly to the prizewinner, except as follows:

(A) Payments sent directly to the financial institution designated pursuant to paragraph (3).

(B) In the event of a default under the security agreement or obligation it secures, payments sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction determining that the payments are to be made directly to the secured creditor.

(7) Upon the termination or release of the security interest, the secured creditor shall file an endorsed copy of the release or termination of the security interest with the lottery.

(d) Except as provided in subdivision (j), an assignment of future payments to another person designated pursuant to an appropriate judicial order of a California superior court or a federal court having jurisdiction over property located within California, if the court determines and states in its order all of the following:

(1) That the prizewinner was represented by independent legal counsel whose name and State Bar of California number appears as counsel of record on all pleadings filed in any and all court proceedings. The prizewinner's legal counsel shall appear as counsel of record at any proceedings that are required by the court.

(2) That the prizewinner has represented to the court either by sworn testimony if a personal appearance is required by the court, or by written declaration filed with the court under penalty of perjury, and that the court has determined these representations to be true and correct, that the prizewinner (A) has reviewed and understands the terms and effects of the assignment, (B) understands that he or she will not receive the prize payments or portions thereof for the years assigned, (C) has entered into the agreement of his or her own free will without undue influence or duress and not under the influence of drugs or alcohol, (D) has had an opportunity to retain independent financial and tax advice, and (E) has been represented by independent legal counsel, who has advised the prizewinner of his or her legal rights and obligations under the assignment.

(3) It shall be the responsibility of the prizewinner to bring to the attention of the court, either by sworn testimony or by written declaration submitted under penalty of perjury, the existence or nonexistence of a current spouse. If married, the prizewinner shall identify his or her spouse and submit to the court a signed and notarized statement wherein the spouse consents to the assignment. If the prizewinner is married and the notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable

law, the ability of the prizewinner to make the proposed assignment without the spouse's consent.

(4) The specific prize payment or payments assigned, or any portion thereof, including the dates and amounts of the payments to be assigned, the years in which each payment is to begin and end, the gross amount of the annual payments assigned before taxes, the prizewinner's name as it appears on the lottery claim form, the full legal name of the assignor if different than the prizewinner's name as it appears on the lottery claim form, the assignor's social security or tax identification number, the assignee's full legal name and social security or tax identification number, and, if applicable, the citizenship or resident alien number of the assignee if a natural person.

(5) Expressly identifies the amount, the date if available, any nonspouse coowner, claimant, or lienholder, and the interests, liens, security interests, assignments, or offsets asserted by the state or other persons against any of the prize payments, including, but not limited to, those payments that are the subject of the proposed assignment as those interests, liens, security interests, assignments, or offsets have been represented to the court by the prizewinner in a written declaration signed under penalty of perjury and filed with the court.

(6) That the lottery and the State of California are not parties to the proceeding and that the lottery and the state may rely upon the order in disbursing the prize payments that are the subject of the order. Further, that upon payment of prize moneys pursuant to an order of the court, the lottery, the director, the commission, and the employees of the lottery and the state shall be discharged of any and all liability for the prize paid, and these persons and entities shall have no duty or obligation to any person asserting another interest in, or right to receive, the prize payment.

(7) That the prizewinner or the proposed assignee has obtained and filed with the court a notification from the lottery of any liens, levies, or claims, and the Controller's office of any offsets asserted as of that time against the prizewinner, as reflected in their respective official records as of the time of the notification. The date of the notification shall not be more than 20 days prior to the court hearing, unless extended by the court.

(e) The assignment of the right to receive any prize payment or payments by the prizewinner pursuant to subdivision (d) shall be conditioned on the following terms, conditions, and rights, which may not be waived or modified by the prizewinner:

(1) The payment of moneys to, or on behalf of, the prizewinner by the assignee in consideration for the assignment of the prize payment or payments shall be made in full prior to the time when, under the terms

of the assignment, the lottery is required to make the first prize payment to the assignee, or may be made in two installments, the first being paid prior to the time when, under the terms of the assignment, the lottery is required to make the first prize payment to the assignee and the second installment within 11 months thereafter. The second installment shall not be in an amount that exceeds the first installment. Notwithstanding the foregoing, any other installment payment schedule is permitted if the installment obligation relating to the installments is guaranteed by a financial institution, as defined in paragraph (2) of subdivision (a) of Section 4981 of the Financial Code, or a brokerage firm that is a member of the Securities Investor Protection Corporation (SIPC), as required by the federal Securities Investor Protection Act of 1970 (15 U.S.C. Sec. 78aaa et seq.).

(2) If the prizewinner elects to accept the consideration to be paid for the assignment in two installments as provided in paragraph (1), the prizewinner shall have a special lien for the balance of any payment due, effective without any further action, agreement, or notice, on any of the prize payments assigned by the prizewinner for the payment of moneys from the assignee. This lien shall terminate upon the prizewinner receiving actual payment of the moneys. The tendering of a check, payment instrument, or recital of payment shall not constitute actual payment of moneys for the purposes of this paragraph. Notwithstanding the foregoing, if a prizewinner accepts an installment obligation guaranteed by a Federal Deposit Insurance Corporation (FDIC) or SIPC insured entity, then the lien created by this section shall automatically terminate upon delivery of the installment obligation.

(3) The Legislature finds and declares that the creation of a statutory lien in favor of a prizewinner is necessary to protect the rights of the prizewinner from any creditors, subsequent bankruptcy trustees of the assignee, or from any subsequent assignees when the prizewinner has not received full payment for the assigned prize payments.

(f) Prior to the assignment of any prize as provided in subdivisions (c) and (d), the Controller shall determine whether the prizewinner owes any obligation that is subject to offset under Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 and shall provide written notification of that determination to the lottery and to the Secretary of State.

(g) If the lottery determines that the court order issued pursuant to subdivision (d) is complete and correct in all respects, the lottery shall send the prizewinner and the assignee or assignees written confirmation of receipt of the court-ordered assignment and of the lottery's intention to rely thereon in making future payments to the assignee or assignees named in the court order.

(h) Notwithstanding any other provision of law, by entering into an agreement to assign any prize payments pursuant to subdivision (c) or (d), a prizewinner shall be deemed to have waived any statutory period of limitation as to the State of California enforcing any rights against annual prize payments due after the last assigned payment is paid or released, if assigned as collateral, from the lien granted the secured creditor. No assignment of prize payments pursuant to either subdivision (c) or (d) shall be valid or allowed for the final three annual prize payments from the lottery to the prizewinner.

(i) Any loans made to a prizewinner pursuant to this section shall be exempt from the usury provisions of Article XV of the California Constitution with respect to an assignment of a lottery prize as collateral to secure a loan.

(j) (1) Notwithstanding any other provision of this section, no prizewinner shall have the right to assign prize payments pursuant to subdivision (d) or direct the payment of a prize pursuant to paragraph (4) of subdivision (c) if any of the following occurs:

(A) The issuance by the United States Internal Revenue Service (IRS) of a technical rule letter, revenue ruling, or other public ruling of the IRS in which the IRS determines that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(B) The issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(2) Upon receipt of a letter or ruling from the IRS or a published decision of a court of competent jurisdiction, as specified in paragraph (1), the director shall immediately file a copy of that letter, ruling, or published decision with the Secretary of State.

Immediately upon the filing by the director of a letter, ruling, or published decision with the Secretary of State, a prizewinner shall be ineligible to assign a prize pursuant to subdivision (d) or direct the payment of a prize pursuant to paragraph (4) of subdivision (c).

SEC. 113. Section 9359 of the Government Code is amended to read:

9359. Upon his or her written application to the Board of Administration, (a) a member of this system who was a member on the effective date of this amendment who has attained 60 years of age, (b)

a member who hereafter becomes a member of this system who has attained 60 years of age and who is credited with 4 or more years of service, or (c) a member, regardless of age, who is credited with 20 or more years of service, shall be retired, and thereafter shall receive for life the retirement allowance provided in this chapter.

A written application for retirement may be filed at any time during the term of office of the member, or within 30 days after the expiration of his or her term of office. An application that does not specify a different date as the effective date of retirement applied for shall be deemed to be an application for retirement as of the day following the expiration of the term of office of the member.

SEC. 114. Section 9359.1 of the Government Code is amended to read:

9359.1. (a) The retirement allowance for a member all of whose credited service was rendered as a Member of the Senate or Assembly, except as provided in subdivision (d), is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to a member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of a member who is credited with more than 15 years shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years.

(b) The retirement allowance for a member all of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly is the sum of (1) an annual amount equal to 5 percent of the highest compensation received by the officer while serving in that office, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 8 years, plus, if the member is credited with 24 or more years of service, (2) 1⅔ percent of the compensation to which the 5-percent rate is applicable under subparagraph (1) for his or her first 8 years of credited service, multiplied by the number of years of service in excess of 8 years with which the member is credited at the time of his or her retirement, not to exceed 12 years of credited service in excess of the 8 years of service referred to in subparagraph (1).

(c) The retirement allowance for a member part of whose credited service was rendered as a Member of the Senate or Assembly and part of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge or a Member of the Senate or Assembly, is the sum of (1) an annual amount equal to 5 percent of all the compensation, at the time payment of the allowance falls due, to the officer holding the highest salaried office that the member held at any time during his or her service prior to retirement, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 8 years, plus, if the member is credited with 24 or more years of service, (2) 1⅔ percent of the compensation to which the 5-percent rate is applicable under subparagraph (1) for his or her first 8 years of credited service, multiplied by the number of years of service rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge or a Member of the Senate or Assembly, with which the member is credited at the time of his or her retirement, not to exceed 12 years of that credited service in excess of the 8 years referred to in subparagraph (1). If, however, the member would be entitled to receive a greater allowance under subdivision (a), (b), or (d) if all of his or her credited service had been rendered as a Member of the Senate or Assembly or as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly, then all of his or her credited service shall be deemed to have been rendered as a Member of the Senate or Assembly or as an elective officer, and he or she shall receive a retirement allowance computed under subdivision (a), (b), or (d), whichever is greater.

(d) The retirement allowance for a member, all of whose service was rendered as a Member of the Senate or Assembly, who is the surviving spouse of a deceased Member of the Senate or Assembly and who becomes the immediate successor in office of a deceased Member of the Senate or Assembly is an annual amount equal to 5 percent of the compensation payable, at the time the payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of retirement plus the number of years of service as a Member of the Senate or Assembly rendered by the member's deceased spouse plus any period in the term, for which the deceased member was elected, following his or her death, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to a member exceed the

compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of a member, whose total service creditable under this subdivision is in excess of 15 years, shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years. This same computation of total service creditable shall be used as a basis in determining eligibility for retirement, under Sections 9359 and 9359.16, of a member described in this subdivision. A member to whom this subdivision applies shall redeposit an amount equal to the contributions that were required to be contributed by his or her deceased spouse while he or she was a member of the system for his or her service, computed on the basis of the salary and rate of contribution in effect at the time service was rendered, or would have been rendered, in the Legislators' Retirement Fund on account of the service of his or her deceased spouse in order to use that service for the purposes of this section and Sections 9359 and 9359.16.

The amendments to this section enacted at the 1969 Regular Session shall apply with respect to a member who retired or retires, or died or dies while eligible to retire on or after May 1, 1969, and any allowance payable with respect to that member who retired or died prior to the effective date of that amendment, shall be adjusted effective from the date of retirement or death to the amount it would have been had the amendment been in effect on that date.

Sections 9359.11 and 9359.12 shall control over any conflicting provisions of this section.

The amendments to this section during the 1973–74 Second Extraordinary Session shall not be applicable to members who are retired on the effective date of the amendments.

SEC. 115. Section 12011.5 of the Government Code is amended to read:

12011.5. (a) In the event of a vacancy in a judicial office to be filled by appointment of the Governor, or in the event that a declaration of candidacy is not filed by a judge and the Governor is required under subdivision (d) of Section 16 of Article VI of the Constitution to nominate a candidate, the Governor shall first submit to a designated agency of the State Bar of California the names of all potential appointees or nominees for the judicial office for evaluation of their judicial qualifications.

(b) The membership of the designated agency of the State Bar responsible for evaluation of judicial candidates shall consist of attorney members and public members with the ratio of public members to attorney members determined, to the extent practical, by the ratio

established in Sections 6013.4 and 6013.5 of the Business and Professions Code. It is the intent of this subdivision that the designated agency of the State Bar responsible for evaluation of judicial candidates shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. The further intent of this subdivision is to establish a selection process for membership on the designated agency of the State Bar responsible for evaluation of judicial candidates under which no member of that agency shall provide inappropriate, multiple representation for purposes of this subdivision.

(c) Upon receipt from the Governor of the names of candidates for judicial office and their completed personal data questionnaires, the State Bar shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the judicial duties of the office to which the appointment or nomination shall be made. Within 90 days of submission by the Governor of the name of a potential appointee for judicial office, the State Bar shall report in confidence to the Governor its recommendation whether the candidate is exceptionally well qualified, well qualified, qualified, or not qualified and the reasons therefor, and may report, in confidence, other information as the State Bar deems pertinent to the qualifications of the candidate.

(d) In determining the qualifications of a candidate for judicial office, the State Bar shall consider, among other appropriate factors, his or her industry, judicial temperament, honesty, objectivity, community respect, integrity, health, ability, and legal experience.

(e) The State Bar shall establish and promulgate rules and procedures regarding the investigation of the qualifications of candidates for judicial office by the designated agency. These rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's health, physical or mental condition, or moral turpitude which, unless rebutted, would be determinative of the candidate's unsuitability for judicial office. No provision of this section shall be construed as requiring that any rule or procedure be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and no information shall either be disclosed to the candidate nor be obtainable by any process that would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

(f) All communications, written, verbal, or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and

Appointments Secretary, or of and to the State Bar in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the State Bar with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

(g) If the Governor has appointed a person to a trial court who has been found not qualified by the designated agency, the State Bar may make public this fact after due notice to the appointee of its intention to do so, but that notice or disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the appointee.

(h) If the Governor has nominated or appointed a person to the Supreme Court or court of appeal in accordance with subdivision (d) of Section 16 of Article VI of the California Constitution, the Commission on Judicial Appointments may invite, or the State Bar's governing board or its designated agency may submit to the commission its recommendation, and the reasons therefor, but that disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the nominee or appointee.

(i) No person or entity shall be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefor. As used in this section, the term "State Bar" means its governing board and members thereof, the designated agency of the State Bar and members thereof, and employees and agents of the State Bar.

(j) At any time prior to the receipt of the report from the State Bar specified in subdivision (c) the Governor may withdraw the name of any person submitted to the State Bar for evaluation pursuant to this section.

(k) No candidate for judicial office may be appointed until the State Bar has reported to the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the State Bar, whichever occurs earlier. This subdivision shall not apply to any vacancy in judicial office occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies and with respect to nominations pursuant to subdivision (d) of Section 16 of Article VI of the California Constitution, the Governor shall be required to submit any candidate's name to the State Bar in order to provide it an opportunity, if time permits, to make an evaluation.

(*l*) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to judicial office, nor shall anything in this section be construed as adding any additional qualifications for the office of a judge.

(m) The Board of Governors of the State Bar shall not conduct or participate in, or authorize any committee, agency, employee, or commission of the State Bar to conduct or participate in, any evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in Section 2 or 3 of Article VI of the California Constitution without prior review and statutory authorization by the Legislature, except an evaluation, review, or report on potential judicial appointees or nominees as authorized by this section.

This subdivision shall not be construed to prohibit a member of the State Bar from conducting or participating in an evaluation, review, or report in his or her individual capacity.

(n) (1) Notwithstanding any other provision of this section, on or before March 1, 2007, and on or before March 1 of each year thereafter, all of the following shall occur:

(A) The Governor shall disclose aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender.

(B) The designated agency of the State Bar responsible for evaluation of judicial candidates shall collect and release both of the following on an aggregate statewide basis:

(i) Statewide demographic data provided by judicial applicants reviewed relative to ethnicity and gender.

(ii) The statewide summary of the recommendations of the designated agency of the State Bar by ethnicity and gender.

(C) The Administrative Office of the Courts shall collect and release the demographic data provided by justices and judges described in Article VI of the California Constitution relative to ethnicity and gender, by specific jurisdiction.

(2) Any demographic data disclosed or released pursuant to this subdivision shall disclose only aggregated statistical data and shall not identify any individual applicant, justice, or judge.

(o) If any provision of this section other than a provision relating to or providing for confidentiality or privilege from disclosure of any communication or matter, or the application of the provision to any person or circumstances, is held invalid, the remainder of this section to the extent it can be given effect, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this

section are severable. If any other act of the Legislature conflicts with the provisions of this section, this section shall prevail.

SEC. 116. Section 13952 of the Government Code is amended to read:

13952. (a) An application for compensation shall be filed with the board in the manner determined by the board.

(b) (1) The application for compensation shall be verified under penalty of perjury by the individual who is seeking compensation, who may be the victim or derivative victim, or an individual seeking reimbursement for burial, funeral, or crime scene cleanup expenses pursuant to subdivision (a) of Section 13957. If the individual seeking compensation is a minor or is incompetent, the application shall be verified under penalty of perjury or on information and belief by the parent with legal custody, guardian, conservator, or relative caregiver of the victim or derivative victim for whom the application is made. However, if a minor seeks compensation only for expenses for medical, medical-related, psychiatric, psychological, or other mental health counseling-related services and the minor is authorized by statute to consent to those services, the minor may verify the application for compensation under penalty of perjury.

(2) For purposes of this subdivision, "relative caregiver" means a relative as defined in subdivision (i) of Section 6550 of the Family Code, who assumed primary responsibility for the child while the child was in the relative's care and control, and who is not a biological or adoptive parent.

(c) (1) The board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation.

(2) The staff of the board shall determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. The applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff's determination to the board, which shall review the application to determine whether it is complete.

(d) (1) The board may recognize an authorized representative of the victim or derivative victim, who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(2) For purposes of this subdivision, "authorized representative" means any of the following:

(A) An attorney.

(B) If the victim or derivative victim is a minor or an incompetent adult, the legal guardian or conservator, or an immediate family member, parent, or relative caregiver who is not the perpetrator of the crime that gave rise to the claim.

(C) A victim assistance advocate certified pursuant to Section 13835.10 of the Penal Code.

(D) An immediate family member of the victim or derivative victim, who has written authorization by the victim or derivative victim, and who is not the perpetrator of the crime that gave rise to the claim.

(E) Other persons who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(3) Except for attorney's fees awarded under this chapter, no authorized representative described in paragraph (2) shall charge, demand, receive, or collect any amount for services rendered under this subdivision.

SEC. 117. Section 13955 of the Government Code is amended to read:

13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of the following:

(1) A victim.

(2) A derivative victim.

(3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to subdivision (a) of Section 13957.

(B) This paragraph applies without respect to any felon status of the victim.

(b) Either of the following conditions is met:

(1) The crime occurred within this state, whether or not the victim is a resident of the state. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

(2) Whether or not the crime occurred within the State of California, the victim was any of the following:

(A) A resident of the state.

(B) A member of the military stationed in California.

(C) A family member living with a member of the military stationed in this state.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of this state, or resident of another state, who is any of the following:

(1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(2) At the time of the crime was living in the household of the victim.

(3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

(4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.

(d) The application is timely pursuant to Section 13953.

(e) (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.

(2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.

(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

(F) Caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

(C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

SEC. 118. Section 14995 of the Government Code is amended to read:

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 disbursal 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 disbursed 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 disbursal system.

(3) An examination of the cost of developing and utilizing a comprehensive electronic payment disbursal 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 disbursal system.

(E) Costs and savings related to administration of a new electronic payment disbursal system.

(4) A recommendation on how a comprehensive electronic payment disbursal system should be developed, including, but not limited to, recommendations on whether the state should contract for private administration of an electronic payment disbursal 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 disbursal of funds through an electronic payment disbursal system.

(6) A recommendation on which state agencies, boards, and departments should be required to use the electronic payment disbursal system for payment of funds, and what, if any, exceptions should be provided for these agencies, boards, and departments.

(7) An examination of and recommendation on incorporating the disbursal 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 disbursal 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 disbursal system.

(11) A recommendation on the timely development of the electronic payment disbursal system.

SEC. 118.5. Section 16584 of the Government Code is amended to read:

16584. (a) A participant may enter into a contract with a private debt collector or private person or entity for the assignment or sale of all or part of its accounts receivable, provided that the participant does all of the following:

(1) Determines the assignment or sale is likely to generate more net revenue or net value than equivalent state efforts.

(2) Determines the assignment or sale will not compromise future state revenue collections.

(3) Notifies the debtor in writing at the address of record that the alleged accounts receivable debt will be turned over for private collection

unless the debt is paid, or appealed within a time period, as determined by the participant.

(b) No participant shall enter into a contract for the assignment or sale of any accounts receivable pursuant to subdivision (a) if the accounts receivable debt has been contested.

(c) Any contract entered into pursuant to this section is subject to Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

SEC. 119. Section 17558.8 of the Government Code is amended to read:

17558.8. (a) The commission may, on its own initiative, consolidate incorrect reduction claims filed with the commission by different claimants under the same mandate if all of the following apply:

(1) The same method, act, or practice is alleged to have led to the reduction in each claim, and all of the claims involve common questions of law or fact.

(2) The common questions of law or fact among the claims predominate over any matter affecting only an individual claim.

(3) The consolidation of similar claims by individual claimants would result in consistent decisionmaking by the commission.

(b) The commission shall adopt regulations establishing procedures for consolidation of incorrect reduction claims pursuant to this section and for providing a hearing on a consolidated claim.

SEC. 119.5. Section 19632 of the Government Code, as added by Section 3 of Chapter 1048 of the Statutes of 2000, is amended and renumbered to read:

19633. In any proceeding brought pursuant to Section 1094.5 of the Code of Civil Procedure for the purpose of inquiring into the validity of any final administrative order or decision by the board, an award of costs or attorney's fees or both to the petitioner shall be borne by the real party in interest and shall not be assessed against the board, unless there is no real party in interest. This section may not be construed to authorize an award of attorney's fees.

SEC. 120. Section 19822.3 of the Government Code is amended to read:

19822.3. All state agencies shall implement and use the California Automated Travel Expense Reimbursement System (CalATERS) to automate processing of employee travel claims by July 1, 2009, unless the Controller recommends, and the Department of Finance approves, an exemption request. To request an exemption, a department or agency shall submit documentation to the Controller no later than July 1, 2007, to substantiate that the implementation of CalATERS is not feasible or cost-effective for that department or agency. The Department of Finance

and the Controller shall jointly report to the Joint Legislative Budget Committee, not later than February 1, 2008, on the exemptions that have been approved and the bases for the exemptions.

SEC. 121. Section 20037.7 of the Government Code is amended to read:

20037.7. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 122. Section 20479 of the Government Code is amended to read:

20479. Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no contract or contract amendment shall be made to provide retirement benefits for some, but not all members of the following membership classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, or local safety officers.

No contract or contract amendments shall provide different retirement benefits for a subgroup, including, but not limited to, bargaining units or unrepresented groups, within those membership classifications.

This section does not preclude changing membership classification from one membership classification to another membership classification or exclusion of groups of members by contract.

For purposes of this section, "benefit" shall not be limited to the benefits set forth in Section 20020.

SEC. 123. Section 20636 of the Government Code is amended to read:

20636. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(4) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 et seq. of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. One employee may not be considered a group or class.

(2) Increases in compensation earnable granted to an employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except

as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for an absence of a member shall be based on the compensation earnable by him or her at the beginning of the absence and for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. "Payrate" for state members shall include:

(A) An amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) A payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of Title 26 of the United States Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

(D) Disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by his or her employer in payment for the member's services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, Peace Officer Standards and Training (POST) certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within "special compensation."

(4) "Payrate" and "special compensation" for state members do not include any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member's wages for participation in a deferred compensation plan may not be considered to be "employer payments."

(F) Payments for unused vacation, annual leave, personal leave, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and that are applied by the employer for any of the following:

(i) The purchase of a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(ii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions may not become effective unless approved by the Legislature in the annual Budget Act. No memorandum of understanding reached pursuant to Section 3517.5 or 3560 may exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Personnel Administration or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph

(4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

SEC. 124. Section 21150 of the Government Code is amended to read:

21150. (a) A member incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with five years of state service, regardless of age, unless the person has elected to become subject to Section 21076 or 21077.

(b) A member subject to Section 21076 or 21077 who becomes incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with 10 years of state service, regardless of age, except that a member may retire for disability if he or she had five years of state service prior to January 1, 1985.

(c) For purposes of this section, "state service" includes service to the state for which the member, pursuant to Section 20281.5, did not receive credit.

SEC. 125. Section 21227 of the Government Code is amended to read:

21227. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a member of the academic staff of the California State University, if that service does not exceed a total for all employers of 960 hours in a fiscal year or 50 percent of the hours the member was employed during the last fiscal year of service prior to retirement, whichever is less.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, if during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

SEC. 126. Section 26744.5 of the Government Code is amended to read:

26744.5. (a) The fees for processing a warrant issued pursuant to Section 1993 of the Code of Civil Procedure shall be paid by the moving party, as follows:

(1) Thirty dollars ($30) to receive and process the warrant, which shall include the issuance and mailing of a notice advising the person to be arrested of the issuance of the warrant and demanding that the person appear in court.

(2) Twenty-eight dollars ($28) to cancel the service of the warrant.

(3) Sixty dollars ($60) if unable to find the person at the address specified using due diligence.

(4) Seventy-five dollars ($75) to arrest the person, which shall include the arrest and release of the person on a promise to appear pursuant to Section 1993.2 of the Code of Civil Procedure.

(b) The in forma pauperis fee waiver provisions under Rules 3.50 to 3.63, inclusive, of the California Rules of Court shall apply to the collection of fees under this section.

SEC. 127. Section 31485.7 of the Government Code is amended to read:

31485.7. (a) Notwithstanding any other 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. 128. Section 31485.8 of the Government Code is amended to read:

31485.8. (a) Notwithstanding any other provision of this chapter, a member who elects to purchase retirement service credit under Section 31490.5, 31490.6, 31494.3, 31494.5, 31641.1, 31641.5, 31646, 31652, or 31658, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 129. Section 53343.1 of the Government Code is amended to read:

53343.1. For any community facilities district formed after January 1, 1992, the community facilities district shall prepare, if requested by a person who resides in or owns property in the district, within 120 days after the last day of each fiscal year, a separate document titled an "Annual Report." The district may charge a fee for the report not exceeding the actual costs of preparing the report. The report shall include the following information for the fiscal year:

(a) The amount of special taxes collected for the year.

(b) The amount of other moneys collected for the year and their source, including interest earned.

(c) The amount of moneys expended for the year.

(d) A summary of the amount of moneys expended for the following:

(1) Facilities, including property.

(2) Services.

(3) The costs of bonded indebtedness.

(4) The costs of collecting the special tax under Section 53340.

(5) Other administrative and overhead costs.

(e) For moneys expended for facilities, including property, an identification of the categories of each type of facility funded with amounts expended in each category, including the total percentage of the cost of each type of facility that was funded with bond proceeds or special taxes.

(f) For moneys expended for services, an identification of the categories of each type of service funded with amounts expended in each category, including the total percentage of the cost of each type of service that was funded with bond proceeds or special taxes.

(g) For moneys expended for other administrative costs, an identification of each of these costs.

(h) A certification and explanation by the district of how the moneys described in subdivisions (d), (e), (f), and (g) comply with Section 53343.

The annual report shall contain references to the relevant sections of the resolution of formation of the district so that interested persons may confirm that bond proceeds and special taxes are being used for authorized purposes. The annual report shall be made available to the public upon request.

SEC. 130. Section 53635.8 of the Government Code is amended to read:

53635.8. Notwithstanding Section 53601 or any other provision of this code, a local agency, at its discretion, may invest a portion of its surplus funds in certificates of deposit at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of certificates of deposit, provided that the purchases of certificates of deposit pursuant to this section, Section 53601.8, and subdivision (h) of Section 53601 do not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose. The following conditions shall apply:

(a) The local agency shall choose a nationally or state-chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the "selected" depository institution.

(b) The selected depository institution may submit the funds to a private sector entity that assists in the placement of certificates of deposit with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States, for the local agency's account.

(c) The full amount of the principal and the interest that may be accrued during the maximum term of each certificate of deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(d) The selected depository institution shall serve as a custodian for each certificate of deposit that is issued with the placement service for the local agency's account.

(e) At the same time the local agency's funds are deposited and the certificates of deposit are issued, the selected depository institution shall receive an amount of deposits from other commercial banks, savings banks, savings and loan associations, or credit unions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment.

(f) A local agency may not invest surplus funds with a selected depository institution for placement as certificates of deposit pursuant to this section on or after January 1, 2012. A local agency's surplus funds, invested pursuant to this section before January 1, 2012, may remain invested in certificates of deposit issued through a private sector entity for the full term of each certificate of deposit.

(g) Notwithstanding subdivisions (a) to (f), inclusive, no credit union may act as a selected depository institution under this section or Section 53601.8 unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more certificate of deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(h) It is the intent of the Legislature that nothing in this section shall restrict competition among private sector entities that provide placement services pursuant to this section.

SEC. 131. Section 68661 of the Government Code is amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 34 attorneys who may be appointed by the Supreme Court to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting postconviction actions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, and preparing petitions for executive clemency. An appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the Supreme Court in recruiting members of the private bar to accept death penalty habeas corpus case appointments.

(d) To establish and periodically update a roster of attorneys qualified as counsel in postconviction proceedings in capital cases.

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in postconviction proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel under appointment by the Supreme Court, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice or, to the extent not otherwise available, any other assistance to appointed counsel in postconviction proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in postconviction proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(*l*) The center shall report annually to the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in postconviction capital cases, and on the operations of the center. On or before January 1, 2000, the Legislative Analyst's Office shall evaluate the available reports.

SEC. 132. Section 69927 of the Government Code is amended to read:

69927. (a) It is the intent of the Legislature in enacting this section to develop a definition of the court security component of court operations that modifies Function 8 of Rule 10.810 of the California Rules of Court in a manner that will standardize billing and accounting practices and court security plans, and identify allowable law enforcement security costs after the operative date of this article. It is not the intent of the Legislature to increase or decrease the responsibility of a county for the cost of court operations, as defined in Section 77003 or Rule 10.810 of the California Rules of Court, as it read on January 1, 2007, for court security services provided prior to January 1, 2003. It is the intent of the Legislature that a sheriff's or marshal's court law enforcement budget not be reduced as a result of this article. Any new court security costs permitted by this article shall not be operative unless the funding is provided by the Legislature.

(1) The Judicial Council shall adopt a rule establishing a working group on court security. The group shall consist of six representatives from the judicial branch of government, as selected by the Administrative Director of the Courts, two representatives of the counties, as selected by the California State Association of Counties, and three representatives of the county sheriffs, as selected by the California State Sheriffs' Association. It is the intent of the Legislature that this working group may recommend modifications only to the template used to determine that the security costs submitted by the courts to the Administrative Office of the Courts are permitted pursuant to this article. The template shall be a part of the trial court's financial policies and procedures manual and used in place of the definition of law enforcement costs in Function 8 of Rule 10.810 of the California Rules of Court. If the working group determines that there is a need to make recommendations to the template

that specifically involve law enforcement or security personnel in courtrooms or court detention facilities, the membership of the working group shall change and consist of six representatives from the judicial branch of government selected by the Administrative Director of the Courts, two representatives of the counties selected by the California State Association of Counties, two representatives of the county sheriffs selected by the California State Sheriffs' Association, and two representatives of labor selected by the California Coalition of Law Enforcement Associations.

(2) The Judicial Council shall establish a working group on court security to promulgate recommended uniform standards and guidelines that may be used by the Judicial Council and any sheriff or marshal for the implementation of trial court security services. The working group shall consist of representatives from the judicial branch of government, the California State Sheriffs' Association, the California State Association of Counties, the Peace Officer's Research Association of California, and the California Coalition of Law Enforcement Associations, for the purpose of developing guidelines. The Judicial Council, after requesting and receiving recommendations from the working group on court security, shall promulgate and implement rules, standards, and policy directions for the trial courts in order to achieve efficiencies that will reduce security operating costs and constrain growth in those costs.

(3) When mutually agreed to by the courts, county, and the sheriff or marshal in any county, the costs of perimeter security in any building that the court shares with any county agency, excluding the sheriff's or marshal's department, shall be apportioned based on the amount of the total noncommon square feet of space occupied by the court and any county agency.

(4) "Allowable costs for equipment, services, and supplies," as defined in the contract law enforcement template, means the purchase and maintenance of security screening equipment and the costs of ammunition, batons, bulletproof vests, handcuffs, holsters, leather gear, chemical spray and holders, radios, radio chargers and holders, uniforms, and one primary duty sidearm.

(5) "Allowable costs for professional support staff for court security operations," as defined in the contract law enforcement template, means the salary, benefits, and overtime of staff performing support functions that, at a minimum, provide payroll, human resources, information systems, accounting, or budgeting.

Allowable costs for professional support staff for court security operations in each trial court shall not exceed 6 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services less

than ten million dollars ($10,000,000) per year. Allowable costs for professional support staff for court security operations for each trial court shall not exceed 4 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services exceeding ten million dollars ($10,000,000) per year. Additional costs for services related to court-mandated special project support, beyond those provided for in the contract law enforcement template, are allowable only when negotiated by the trial court and the court law enforcement provider. Allowable costs shall not exceed actual costs of providing support staff services for law enforcement security personnel services.

The working group established pursuant to paragraph (1) of subdivision (a) may periodically recommend changes to the limit for allowable costs for professional support staff for court security operations based on surveys of actual expenditures incurred by trial courts and the court law enforcement provider in the provision of law enforcement security personnel services. Limits for allowable costs as stated in this section shall remain in effect until changes are recommended by the working group and adopted by the Judicial Council.

(6) "Allowable costs for security personnel services," as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee's time in court security services as a proportion of total service credit earned after January 1, 1998, premium pay, retirement, state disability insurance, unemployment insurance costs, workers' compensation paid to an employee in lieu of salary, workers' compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel.

(A) The Administrative Office of the Courts shall use the actual salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the funding request that will be presented to the Department of Finance.

(B) Courts and court security providers shall manage their resources to minimize the use of overtime.

(7) "Allowable costs for vehicle use for court security needs," as defined in the contract law enforcement template, means the per-mile recovery cost for vehicles used in rendering court law enforcement

services, exclusive of prisoner or detainee transport to or from court. The standard mileage rate applied against the miles driven for the above shall be the standard reimbursable mileage rate in effect for judicial officers and employees at the time of contract development.

(b) Nothing in this article may increase a county's obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 10.810 of the California Rules of Court, as it read on January 1, 2007, or that meets the definition of any new law enforcement component developed pursuant to this article.

SEC. 133. Section 70311 of the Government Code is amended to read:

70311. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for "court operations," as defined in Section 77003 and Rule 10.810 of the California Rules of Court, as it read on January 1, 2007.

(b) Except as provided in Section 70312, commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) Any reference in the statutes enacted prior to January 1, 2003, that refers to Section 68073 shall be deemed to refer to this section.

SEC. 134. Section 70359 of the Government Code is amended to read:

70359. (a) Court facilities rental or leasing, except to the extent included as a court operation in Rule 10.810 of the California Rules of Court, shall be included in the county facilities payment using as the

initial amount the annual amount for the lease for the fiscal year of the date of transfer of those court facilities to the state.

(b) The amount computed under subdivision (a) shall be adjusted annually for each remaining year in the lease to reflect the changed annualized amount for the lease for each year remaining on the lease. A lease amount in the final year of any lease entered into or renewed on or after October 2, 2001, shall represent a good faith relationship to the fair market value of the facilities either at the time of the making of the lease or the time of determination of the final year lease amount.

(c) The adjustment of the amount pursuant to subdivision (b) shall not permit either the county or the Judicial Council to appeal the county facilities payment amount under Section 70366 or 70367, except as to any issues directly related to the adjustment made by subdivision (b).

(d) The amount of any lease included in the county facilities payment amount shall, unless otherwise agreed to by the Administrative Director of the Courts and the county, be paid by the county from the county's courthouse construction fund, if the lease was originally entered into prior to July 1, 2002, and to the extent the lease was funded in whole or in part by the courthouse construction fund prior to July 1, 2002. The length of time payment that may be made from the courthouse construction fund is to be calculated by the length of the lease entered into before July 1, 2002, plus any one renewal or extension of not more than five years entered into on or after July 2, 2002. The Administrative Director of the Courts may agree to a longer time for payment from the courthouse construction fund.

SEC. 135. Section 70640 of the Government Code is amended to read:

70640. (a) It is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court. To defray that expense, monthly allocations for children's waiting rooms shall be added to the monthly apportionment under subdivision (a) of Section 68085 for each court where a children's waiting room has been established or where the court has elected to establish that service.

(b) The amount allocated to each court under this section shall be equal to the following: for each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670, and each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658, the same amount as was required to be collected as of December 31, 2005, to the Children's Waiting Room Fund under former Section 26826.3 in the

county in which the court is located when a fee was collected for the filing of a first paper in a civil action under former Section 26820.4.

(c) Notwithstanding any other provision of law, the court may make expenditures from these allocations in payment of any cost, excluding capital outlay, related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, furnishings, toys, books, or any other item in connection with the operation of a children's waiting room.

(d) If, as of January 1, 2006, there is a Children's Waiting Room Fund in the county treasury established under former Section 26826.3, the county immediately shall transfer the moneys in that fund to the court's operations fund as a restricted fund. By February 15, 2006, the county shall provide an accounting of the fund to the Administrative Office of the Courts.

(e) After January 1, 2006, the court may apply to the Judicial Council for an adjustment of the amount distributed to the fund for each uniform filing fee. A court that wishes to establish a children's waiting room, and does not yet have a distribution under this section, may apply to the Judicial Council for a distribution. Applications under this subdivision shall be made according to trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206. Adjustments and new distributions shall be effective January 1 or July 1 of any year beginning January 1, 2006.

(f) The distribution to a court under this section per each filing fee shall be not less than two dollars ($2) and not more than five dollars ($5).

SEC. 136. Section 71601 of the Government Code is amended to read:

71601. For purposes of this chapter, the following definitions shall apply:

(a) "Appointment" means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court's personnel policies, procedures, and plans.

(b) "Employee organization" means either of the following:

(1) Any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with that trial court.

(2) Any organization that seeks to represent trial court employees in their relations with that trial court.

(c) "Hiring" means appointment as defined in subdivision (a).

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the trial court and

the recognized employee organization or recognized employee organizations through interpretation, suggestion, and advice.

(e) "Meet and confer in good faith" means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

(f) "Personnel rules," "personnel policies, procedures, and plans," and "rules and regulations" mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) "Promotion" means promotion within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) "Recognized employee organization" means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under former Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630).

(i) "Subordinate judicial officer" means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and judge pro tempore.

(j) "Transfer" means transfer within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) "Trial court" means a superior court.

(*l*) "Trial court employee" means a person who is both of the following:

(1) Paid from the trial court's budget, regardless of the funding source. For the purpose of this paragraph, "trial court's budget" means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures, including,

but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court's right to control the manner and means of his or her work because of the trial court's authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the "trial court" includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a "trial court employee" if and only if both paragraphs (1) and (2) of subdivision (*l*) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 10.810 of the California Rules of Court. "Trial court employee" includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (*l*). The phrase "trial court employee" does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days, except that for court reporters in a county of the first class, a trial court and a recognized employee organization may provide otherwise by mutual agreement in a memorandum of understanding or other agreement.

SEC. 137. Section 71615 of the Government Code is amended to read:

71615. (a) Except as provided in subdivision (b), the effective date of this section shall be January 1, 2004.

(b) Representatives of a trial court and representatives of recognized employee organizations may mutually agree to an implementation date of this section later than January 1, 2004. However, if any provisions of this chapter are governed by an existing memorandum of understanding or agreement covering trial court employees, as to those provisions the implementation date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement, unless representatives of the trial court and representatives of recognized employee organizations mutually agree otherwise.

(c) As of the implementation date of this chapter, all of the following shall apply:

(1) All persons who meet the definition of trial court employee shall become trial court employees at their existing or equivalent classifications.

(2) Employment seniority of a trial court employee, as calculated and used under the system in effect prior to the implementation of this act, shall be calculated and used in the same manner by the trial court.

(3) A trial court employee shall have the same status he or she had as a probationary, permanent, or regular employee under the system in effect prior to January 1, 2004. A probationary employee shall not be required to serve a new probationary period and shall continue the existing probationary period under the terms of hire.

(4) Subject to the agreement of the county, and unless prohibited or limited by charter provisions, the policies regarding transfer between the trial court and the county that are in place as of January 1, 2004, shall be continued while an existing memorandum of understanding or agreement remains in effect or for two years, whichever is longer, and any further rights of trial court employees to transfer between the trial court and the county shall be subject to the obligation to meet and confer in good faith at the local level between representatives of the trial court and representatives of recognized employee organizations and local negotiation between the trial court and the county. Subject to the agreement of the county, and unless prohibited or limited by charter provisions, the policies regarding the portability of seniority, accrued leave credits, and leave accrual rates that are in effect January 1, 2004, shall be continued if trial court or county employees transfer between the trial court and the county or the county and the trial court while an existing memorandum of understanding or agreement remains in effect, or for a period of two years, whichever is longer. Any further right of trial court employees to portability is subject to the obligation to meet and confer in good faith between representatives of the trial court and representatives of recognized employee organizations and local negotiation between the trial court and the county.

(5) Each trial court shall be deemed the successor employer of all trial court employees in the county in which the trial court is located.

(d) In establishing local personnel structures for trial court employees in accordance with this chapter, the trial court shall comply with contractual obligations, and consideration shall be given to minimizing disruption of the trial court workforce and protecting the rights accrued by trial court employees under their current systems. However, prior contractual obligations and rights may be reconsidered subject to the obligation to meet and confer in good faith, provided both parties give consideration to past contractual obligations and rights.

(e) Unrepresented trial court employees are governed by a trial court's personnel policies, procedures, and plans. The implementation of this section may not be a cause for changing a trial court's personnel policies, procedures, and plans applicable to unrepresented trial court employees except where required to bring those policies, procedures, and plans into conformity with this chapter. Except as otherwise expressly provided in this section, a trial court retains all existing rights with respect to revising its personnel policies, procedures, and plans as applied to unrepresented trial court employees.

(f) Upon implementation of this section in a trial court, Sections 68650 to 68655, inclusive, and Rules 10.650 to 10.659, inclusive, of the California Rules of Court, shall be inoperative as to that trial court.

(g) Notwithstanding paragraph (4) of subdivision (c), both of the following shall apply:

(1) Unless prohibited or limited by charter provisions, the policies regarding transfer between either the trial court and the county or the county and the trial court that were in effect as of January 1, 2001, shall be continued while an existing memorandum of understanding or agreement remains in effect or until January 1, 2005, whichever period is longer. Thereafter, any rights of trial court employees to transfer between the trial court and the county shall be subject to the obligation to meet and confer in good faith at the local level between representatives of the trial court and representatives of recognized employee organizations, and local negotiation between the trial court and the county.

(2) Unless prohibited or limited by charter provisions, the policies regarding the portability of seniority, accrued leave credits, and leave accrual rates that were in effect on January 1, 2001, shall be continued if trial court or county employees transfer between either the trial court and the county or the county and the trial court while an existing memorandum of understanding or agreement remains in effect, or until January 1, 2005, whichever period is longer. Thereafter, any right of trial court employees to portability is subject to the obligation to meet and confer in good faith between representatives of the trial court and representatives of recognized employee organizations and local negotiation between the trial court and the county.

SEC. 138. Section 71639 of the Government Code is amended to read:

71639. (a) As of the implementation date of this chapter, an employee organization that is recognized as a representative of a group of trial court employees or the exclusive representative of an established bargaining unit of trial court employees, either by the county or the trial court, shall continue to be recognized by the trial court as a representative

or the exclusive representative of the same trial court employees. A trial court and recognized employee organization shall be bound by the terms of any memorandum of understanding or agreement covering trial court employees to which the trial court or the county is a party that is in effect on the implementation date of this chapter for the duration thereof, or until it expires and, consistent with law, is replaced by a successor memorandum of understanding or agreement, subject to the obligation to meet and confer in good faith. Upon expiration of a memorandum of understanding or agreement, the trial court shall meet and confer in good faith with recognized employee organizations.

(b) A trial court's local rules governing trial court employees and a trial court's personnel rules, policies, and practices, and any county rules in effect pursuant to former Rule 2205 of the California Rules of Court as adopted on April 23, 1997, in effect at the time of the implementation date of this chapter, to the extent they are not contrary to or inconsistent with the obligations and duties provided for in this article, shall continue in effect until changed by the trial court. Prior to changing any rule, policy, or practice that affects any matter within the scope of representation as set forth in this article, the court shall meet and confer in good faith with the recognized employee organization as provided for in this chapter.

(c) Nothing contained in this article is intended to preclude trial court employees from continuing to be included in representation units which contain county employees.

SEC. 139. Section 71675 of the Government Code is amended to read:

71675. (a) Any trial court may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by that trial court. The Judicial Council may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by the Judicial Council.

(b) Notwithstanding Sections 1085 and 1003 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, in the event that a trial court employee, an employee organization, or a member of the public believes there has been a violation of Rule 10.802 of the California Rules of Court concerning the maintenance of, and public access to, budget and management information concerning the Judicial Council or the trial courts, that party may petition the superior court for relief.

(c) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism

for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters, as specified in the rules of court, from which panel a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court, and, if applicable, the court of appeal, on an expedited basis. To the extent permitted by law or rule of court, these rules shall provide that the justice assigned to hear the matter shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.

SEC. 140. Section 77003 of the Government Code is amended to read:

77003. (a) As used in this chapter, "court operations" means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" includes all commissioner or referee positions created prior to July 1, 1997, including positions created in the municipal court prior to July 1, 1997, which thereafter became positions in the superior court as a result of unification of the municipal and superior courts in a county, and including those commissioner positions created pursuant to former Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908; and includes any staff who provide direct support to commissioners; but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff.

(3) Those marshals and sheriffs as the court deems necessary for court operations.

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under Sections 71630 and 71639.3 with respect to court employees.

(7) Subject to paragraph (1) of subdivision (d) of Section 77212, actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services;

indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(8) Except as provided in subdivision (b), other matters listed as court operations in Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

(b) However, "court operations" does not include collection enhancements as defined in Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

SEC. 141. Section 77009 of the Government Code is amended to read:

77009. (a) The Judicial Council may establish bank accounts for the superior courts and require the courts to deposit moneys for trial court operations, and any other moneys under the control of the courts, into those accounts. Deposits to these accounts shall include, but are not limited to, the following:

(1) Moneys appropriated in the Budget Act and allocated or reallocated to the superior court by the Judicial Council.

(2) Moneys held in trust.

(3) Other moneys as deemed necessary or appropriate.

(b) Subdivision (a) shall not apply to payments from a party or a defendant received by the superior court for any criminal fees, fines, or forfeitures. However, the court and county may enter into a contract for the court to provide depository services in an account established by the Judicial Council for criminal fees, fines, and forfeitures, with the approval of the Administrative Director of the Courts. The contract shall identify the scope of service, method of service delivery, term of agreement, anticipated service outcomes, and the cost of the service. The amount of any indirect or overhead costs shall be individually stated with the method of calculation of the indirect or overhead costs.

(c) Moneys deposited into a bank account established pursuant to subdivision (a) for the Trial Court Operations Fund that are appropriated in the Budget Act and allocated or reallocated to the superior court by the Judicial Council shall be payable only for the purposes set forth in Sections 77003 and 77006.5, and for services purchased by the court pursuant to subdivisions (b) and (c) of Section 77212.

(d) (1) All moneys received by a superior court from any source for court operating and program purposes shall be deposited into a bank account established pursuant to subdivision (a) and accounted for in the Trial Court Operations Fund. Moneys that are received to fulfill the requirements of Article 4 (commencing with Section 4250) of Chapter 2 of Part 2 of Division 9 and Division 14 (commencing with Section 10000) of the Family Code shall be identified and maintained in a separate account established in the fund for this purpose.

(2) All other moneys deposited into a bank account established pursuant to subdivision (a) and accounted for in the Trial Court Operations Fund that are received for purposes other than court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court, shall be identified and maintained in separate accounts in the fund.

(3) This subdivision shall not apply to either of the following:

(A) Moneys received by the courts pursuant to paragraph (2) of subdivision (a) of this section and Section 68084, if those moneys are not for court operating or program purposes.

(B) Payments from a party or a defendant received by the county for any fees, fines, or forfeitures; moneys collected by the superior court under Chapter 5.8 (commencing with Section 70600); or fees and fines to which Section 68085.1 applies.

(e) The presiding judge of the superior court, or his or her designee, shall authorize and direct all expenditures by the court for operating and program purposes from any account established under subdivision (b) or (c).

(f) The Judicial Council, in consultation with the Controller's office, shall establish procedures to implement this section and to provide for payment of trial court operations expenses, as described in Sections 77003 and 77006.5, incurred on July 1, 1997, and thereafter.

(g) (1) If the Judicial Council has not established bank accounts pursuant to subdivision (a), the court shall contract with the county for fiscal services. Each board of supervisors shall maintain in the county treasury a Trial Court Operations Fund, which will operate as an agency fund. All moneys appropriated in the Budget Act and allocated and reallocated to the superior court in the county by the Judicial Council shall be deposited into the fund.

(2) Moneys deposited into the fund that are appropriated for the Trial Court Operations Fund in the Budget Act and allocated or reallocated to the superior court by the Judicial Council shall be payable only for the purposes set forth in Sections 77003 and 77006.5, and for services purchased by the court pursuant to subdivisions (b) and (c) of Section 77212. The presiding judge of the superior court, or his or her designee, shall authorize and direct expenditures from the fund and the county auditor-controller shall make payments from the funds as directed. Approval of the board of supervisors is not required for expenditure from this fund.

(3) All moneys received by a superior court from any source for court operating and program purposes shall be deposited in the fund, except as provided in this subdivision. Moneys that are received to fulfill the requirements of Article 4 (commencing with Section 4250) of Chapter

2 of Part 2 of Division 9 and Division 14 (commencing with Section 10000) of the Family Code shall be identified and maintained in a separate account established in the fund for this purpose. All other moneys that are received for purposes other than court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court, shall be identified and maintained in one or more separate accounts established in the fund pursuant to procedures adopted by the Judicial Council. This subdivision shall only apply to moneys received by the courts for operating and program purposes. This subdivision shall not apply to either of the following:

(A) Moneys received by the courts pursuant to Section 68084, if those funds are not for court operating or program purposes.

(B) Payments from a party or a defendant received by the county for any fees, fines, or forfeitures; moneys collected by the superior court under Chapter 5.8 (commencing with Section 70600); or fees and fines to which Section 68085.1 applies.

(4) Interest received by a county that is attributable to investment of moneys, which interest is required by this subdivision to be deposited in the superior court's fund, shall be deposited in the fund and shall be used for trial court operations purposes.

(5) In no event shall interest be charged to the superior court's fund, except as provided in Section 77009.1.

(6) Reasonable administrative expenses incurred by the county associated with the operation of this fund shall be charged to the superior court.

(7) A county, or city and county, may bill the superior court within its jurisdiction for costs for services provided by the county, or city and county, as described in Sections 77003 and 77212, including indirect costs as described in paragraph (7) of subdivision (a) of Section 77003 and Section 77212. The costs billed by the county, or the city and the county, pursuant to this subdivision shall not exceed the costs incurred by the county, or the city and the county, of providing similar services to county departments or special districts.

(8) Pursuant to Section 77206, the Controller, at the request of the Legislature, may perform financial and fiscal compliance audits of this fund. The Judicial Council or its representatives may perform audits, reviews, and investigations of this fund wherever the records may be located.

(h) The Judicial Council or its representatives may perform audits, reviews, and investigations of superior court operations and records wherever they may be located.

SEC. 142. Section 77200 of the Government Code is amended to read:

77200. On and after July 1, 1997, the state shall assume sole responsibility for the funding of court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007. In meeting this responsibility, the state shall do all of the following:

(a) Deposit in the State Trial Court Trust Fund, for subsequent allocation to or for the trial courts, all county funds remitted to the state pursuant to Section 77201 until June 30, 1998, and pursuant to Section 77201.1, thereafter.

(b) Be responsible for the cost of court operations incurred by the trial courts in the 1997–98 fiscal year and subsequent fiscal years.

(c) Allocate funds to the individual trial courts pursuant to an allocation schedule adopted by the Judicial Council, but in no case shall the amount allocated to the trial court in a county be less than the amount remitted to the state by the county in which that court is located pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201 until June 30, 1998, and pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201.1, thereafter.

(d) The Judicial Council shall submit its allocation schedule to the Controller at least five days before the due date of any allocation.

SEC. 143. Section 77201 of the Government Code, as added by Section 7 of Chapter 146 of the Statutes of 1998, is repealed.

SEC. 144. Section 77201 of the Government Code, as amended by Section 1 of Chapter 671 of the Statutes of 2000, is amended to read:

77201. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

(b) In the 1997–98 fiscal year, each county shall remit to the state in installments due on January 1, April 1, and June 30, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 42,045,093
Alpine	46,044
Amador	900,196
Butte	2,604,611
Calaveras	420,893
Colusa	309,009

Jurisdiction	Amount
Contra Costa	21,634,450
Del Norte	780,786
El Dorado	3,888,927
Fresno	13,355,025
Glenn	371,607
Humboldt	2,437,196
Imperial	2,055,173
Inyo	546,508
Kern	16,669,917
Kings	2,594,901
Lake	975,311
Lassen	517,921
Los Angeles	291,872,379
Madera	1,242,968
Marin	6,837,518
Mariposa	177,880
Mendocino	1,739,605
Merced	1,363,409
Modoc	114,249
Mono	271,021
Monterey	5,739,655
Napa	2,866,986
Nevada	815,130
Orange	76,567,372
Placer	6,450,175
Plumas	413,368
Riverside	32,524,412
Sacramento	40,692,954
San Benito	460,552
San Bernardino	31,516,134
San Diego	77,637,904
San Francisco	31,142,353
San Joaquin	9,102,834
San Luis Obispo	6,840,067
San Mateo	20,383,643
Santa Barbara	10,604,431
Santa Clara	49,876,177
Santa Cruz	6,449,104
Shasta	3,369,017
Sierra	40,477
Siskiyou	478,144
Solano	10,780,179

Jurisdiction	Amount
Sonoma	9,273,174
Stanislaus	8,320,727
Sutter	1,718,287
Tehama	1,352,370
Trinity	620,990
Tulare	6,981,681
Tuolumne	1,080,723
Ventura	16,721,157
Yolo	2,564,985
Yuba	842,240

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001 and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$12,769,882
Alpine	58,757
Amador	377,005
Butte	1,437,671
Calaveras	418,558
Colusa	485,040
Contra Costa	6,138,742
Del Norte	235,438
El Dorado	1,217,093
Fresno	4,505,786
Glenn	455,389
Humboldt	1,161,745
Imperial	1,350,760
Inyo	878,321
Kern	6,688,247
Kings	1,115,601
Lake	424,070
Lassen	513,445
Los Angeles	89,771,310
Madera	1,207,998
Marin	2,700,045
Mariposa	135,457
Mendocino	948,837

Jurisdiction	Amount
Merced	2,093,355
Modoc	122,156
Mono	415,136
Monterey	3,855,457
Napa	874,219
Nevada	1,378,796
Orange	24,830,542
Placer	2,182,230
Plumas	225,080
Riverside	13,328,445
Sacramento	7,548,829
San Benito	346,451
San Bernardino	11,694,120
San Diego	21,410,586
San Francisco	5,925,950
San Joaquin	4,753,688
San Luis Obispo	2,573,968
San Mateo	7,124,638
Santa Barbara	4,094,288
Santa Clara	15,561,983
Santa Cruz	2,267,327
Shasta	1,198,773
Sierra	46,778
Siskiyou	801,329
Solano	3,757,059
Sonoma	2,851,883
Stanislaus	2,669,045
Sutter	802,574
Tehama	761,188
Trinity	137,087
Tulare	2,299,167
Tuolumne	440,496
Ventura	6,129,411
Yolo	1,516,065
Yuba	402,077

(3) The installment due on January 1 shall be for 25 percent of the amounts specified in paragraphs (1) and (2). The installments due on April 1 and June 30 shall be prorated uniformly to reflect any adjustments made by the Department of Finance, as provided in this section. If no adjustment is made by April 1, 1998, the April 1, 1998, installment shall be for 15 percent of the amounts specified in paragraphs (1) and (2). If

no adjustment is made by June 30, 1998, the June 30, 1998, installment shall be for the balance of the amounts specified in paragraphs (1) and (2).

(4) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) that a county is required to submit to the state, pursuant to the following:

(1) A county shall submit a declaration to the Department of Finance, no later than February 15, 1998, that the amount it is required to submit to the state pursuant to paragraph (1) of subdivision (b) either includes or does not include the costs for local judicial benefits which are court operation costs as defined in Section 77003 and Rule 10.810 of the California Rules of Court. The trial courts in a county that submits such a declaration shall be given a copy of the declaration and the opportunity to comment on the validity of the statements in the declaration. The Department of Finance shall verify the facts in the county's declaration and comments, if any. Upon verification that the amount the county is required to submit to the state includes the costs of local judicial benefits, the department shall reduce on or before June 30, 1998, the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the cost of those judicial benefits, in which case the county shall continue to be responsible for the cost of those benefits. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b), the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit.

(d) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) of Section 77201.1 that a county is required to submit to the state, pursuant to the following procedures:

(1) A county may submit a declaration to the Department of Finance, no later than February 15, 1998, that declares that (A) the county incorrectly reported county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that incorrect report resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too high, (B) the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) includes amounts that were specifically appropriated, funded, and expended by a county or city and county during the 1994–95 fiscal year to fund extraordinary one-time expenditures for court operation costs, or (C) the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) includes expenses that were funded from grants or subventions from any source, for court operation costs that could not have been funded without those grants or subventions being available. A county submitting that declaration shall concurrently transmit a copy of the declaration to the trial courts of that county. The trial courts in a county that submits that declaration shall have the opportunity to comment to the Department of Finance on the validity of the statements in the declaration. Upon receipt of the declaration and comments, if any, the Department of Finance shall determine and certify which costs identified in the county's declaration were incorrectly reported as court operation costs or were expended for extraordinary one-time expenditures or funded from grants or subventions in the 1994–95 fiscal year. The Department of Finance shall reduce the amount a county must submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount the department certifies was incorrectly reported as court operations costs or were expended for extraordinary one-time expense or funded from grants or subventions in the 1994–95 fiscal year. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1, the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit, which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county

for the cost of the audit. A county shall provide, at no charge to the court, any service for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 was adjusted downward, if the county is required to provide that service at no cost to the court by any other provision of law.

(2) A court may submit a declaration to the Department of Finance, no later than February 15, 1998, that the county failed to report county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. A court submitting that declaration shall concurrently transmit a copy of the declaration to the county. A county shall have the opportunity to comment to the Department of Finance on the validity of statements in the declaration and comments, if any. Upon receipt of the declaration, the Department of Finance shall determine and certify which costs identified in the court's declaration should have been reported by the county as court operation costs in the 1994–95 fiscal year and whether this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. The Department of Finance shall notify the county, the trial courts in the county, and the Judicial Council of its certification and decision. Within 30 days, the county shall either notify the Department of Finance, trial courts in the county, and the Judicial Council that the county shall assume responsibility for the costs the county has failed to report, or that the department shall increase the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount certified by the department. A county shall not be required to continue to provide services for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 was adjusted upward.

(e) The Legislature hereby finds and declares that to ensure an orderly transition to state trial court funding, it is necessary to delay the adjustments to county obligation payments provided for by Article 3 (commencing with Section 77200) of Chapter 13 of Title 8, as added by Chapter 850 of the Statutes of 1997, until the 1998–99 fiscal year. The Legislature also finds and declares that since increase adjustments to the county obligation amounts will not take effect in the 1997–98 fiscal year, county charges for those services related to the increase adjustments shall not occur in the 1997–98 fiscal year. It is recognized that the counties have an obligation to provide, and the trial courts have an obligation to pay, for services provided by the county pursuant to Section 77212. In the 1997–98 fiscal year, the counties shall charge for, and the courts shall pay, these obligations consistent with paragraphs (1) and (2).

(1) For the 1997–98 fiscal year, a county shall reduce the charges to a court for those services for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 is adjusted upward, by an amount equal to the lesser of the following:

(A) The amount of the increase adjustment certified by the department pursuant to paragraph (2) of subdivision (d).

(B) The difference between the actual amount charged and paid for from the trial court operations fund, and the amount charged in the 1994–95 fiscal year.

(2) For the 1997–98 fiscal year, any funds paid out of the trial court operations fund established pursuant to Section 77009 during the 1997–98 fiscal year to pay for those services for which there was an upward adjustment, shall be returned to the trial court operations fund in the amount equal to the lesser of the following:

(A) The amount of the increase adjustment certified by the department pursuant to paragraph (2) of subdivision (d).

(B) The difference between the actual amount charged and paid for from the trial court operations fund, and the amount charged in the 1994–95 fiscal year.

(3) The Judicial Council shall reduce the allocation to the courts by an amount equal to the amount of any increase adjustment certified by the Department of Finance, if the cost of those services was used in determining the Judicial Council's allocation of funding for the 1997–98 fiscal year.

(4) In the event the charges are not reduced as provided in paragraph (1) or the funds are not returned to the trial court operations fund as provided in paragraph (2), the trial court operations fund shall be refunded for the 1998–99 fiscal year. Funds provided to the trial court operations fund pursuant to this paragraph shall be available to the trial courts to meet financial obligations incurred during the 1997–98 fiscal year. To the extent that a trial court receives total resources for trial court funding from the county and the state for the 1997–98 fiscal year that exceeded the amount of the allocation approved by the Judicial Council by November 30, 1997, these amounts shall be available for expenditure in the 1998–99 fiscal year and the Judicial Council shall reduce the 1998–99 fiscal year allocation of the court by an equal amount.

(f) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(g) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not

limited to, indigent defense representation and investigation, and payment of Division of Juvenile Justice charges.

(h) The Department of Finance shall notify the county, trial courts in the county, and Judicial Council of the final decision and resulting adjustment.

(i) On or before February 15, 1998, each county shall submit to the Department of Finance a report of the amount it expended for trial court operations as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007, between the start of the 1997–98 fiscal year and the effective date of this section. The department shall reduce the amount a county is required to remit to the state pursuant to paragraph (1) of subdivision (b) in the 1997–98 fiscal year by an amount equal to the amount a county expended for court operation costs between the start of the 1997–98 fiscal year and the effective date of this section. The department shall also reduce the amount a county is required to remit to the state pursuant to paragraph (2) of subdivision (b) in the 1997–98 fiscal year by an amount equal to the amount of fine and forfeiture revenue that a county remitted to the state between the start of the 1997–98 fiscal year and the effective date of this section. The department shall notify the county, the trial courts of the county, and the Judicial Council of the amount it has reduced a county's obligation to remit to the state pursuant to this subdivision.

SEC. 145. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	-
Amador	-
Butte	-
Calaveras	-

Jurisdiction	Amount
Colusa	-
Contra Costa	11,974,535
Del Norte	-
El Dorado	-
Fresno	11,222,780
Glenn	-
Humboldt	-
Imperial	-
Inyo	-
Kern	9,234,511
Kings	-
Lake	-
Lassen	-
Los Angeles	175,330,647
Madera	-
Marin	-
Mariposa	-
Mendocino	-
Merced	-
Modoc	-
Mono	-
Monterey	4,520,911
Napa	-
Nevada	-
Orange	38,846,003
Placer	-
Plumas	-
Riverside	17,857,241
Sacramento	20,733,264
San Benito	-
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	-
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	-
Shasta	-
Sierra	-
Siskiyou	-

Jurisdiction	Amount
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	-
Tehama	-
Trinity	-
Tulare	-
Tuolumne	-
Ventura	9,734,190
Yolo	-
Yuba	-

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,486,486
Del Norte	124,085
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457

Jurisdiction	Amount
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,163,193
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to

paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of Division of Juvenile Justice charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000 of this code.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation

formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 146. Section 77202 of the Government Code is amended to read:

77202. (a) The Legislature shall make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council. The Judicial Council's trial court budget request, which shall be submitted to the Governor and the Legislature, shall meet the needs of all trial courts in a manner that ensures a predictable fiscal environment for labor negotiations in accordance with the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), that promotes equal access to the courts statewide, and that promotes court financial accountability. The annual budget request shall include the following components:

(1) Commencing with the 2006–07 fiscal year, annual General Fund appropriations to support the trial courts shall be comprised of both of the following:

(A) The current fiscal year General Fund appropriations, which include all of the following:

(i) General Fund moneys appropriated for transfer or direct local assistance in support of the trial courts.

(ii) Transfers to the Judicial Administration Efficiency and Modernization Fund.

(iii) Local assistance grants made by the Judicial Council, including the Equal Access Fund.

(iv) The full year cost of budget change proposals approved through the 2006–07 fiscal year or subsequently approved in accordance with paragraph (2), but excluding lease-revenue payments and funding for

costs specifically and expressly reimbursed through other state or federal funding sources, excluding the cost of one-time or expiring programs.

(B) A cost-of-living and growth adjustment computed by multiplying the year-to-year percentage change in the state appropriation limit as described in Section 3 of Article XIII B of the California Constitution by the sum of all of the following:

(i) The current year General Fund appropriations for the trial courts, as defined in subparagraph (A).

(ii) The amount of county obligations established pursuant to subdivision (b) of Section 77201.1 in effect as of June 30, 2005, six hundred ninety-eight million sixty-eight thousand dollars ($698,068,000).

(iii) The level of funding required to be transferred from the Trial Court Improvement Fund to the Trial Court Trust Fund pursuant to subdivision (k) of Section 77209, thirty-one million five hundred sixty-three thousand dollars ($31,563,000).

(iv) Funding deposited into the Court Facilities Trust Fund associated with each facility that was transferred to the state not less than two fiscal years earlier than the fiscal year for which the cost-of-living and growth adjustment is being calculated.

(v) The court filing fees and surcharges projected to be deposited into the Trial Court Trust Fund in the 2005–06 fiscal year, adjusted to reflect the full-year implementation of the uniform civil fee structure implemented on January 1, 2006, three hundred sixty-nine million six hundred seventy-two thousand dollars ($369,672,000).

(2) In addition to the moneys to be applied pursuant to subdivision (b), the Judicial Council may identify and request additional funding for the trial courts for costs resulting from the implementation of statutory changes that result in either an increased level of service or a new activity that directly affects the programmatic or operational needs of the courts.

(b) The Judicial Council shall allocate the funding from the Trial Court Trust Fund to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state.

The Judicial Council shall ensure that allocations to the trial courts recognize each trial court's implementation of efficiencies and cost-saving measures.

These efficiencies and cost-saving measures shall include, but not be limited to, the following:

(1) The sharing or merger of court support staff among trial courts across counties.

(2) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(3) The establishment of a separate calendar or division to hear a particular type of case.

(4) In rural counties, the use of all court facilities for hearings and trials of all types of cases and the acceptance of filing documents in any case.

(5) The use of alternative dispute resolution programs, such as arbitration.

(6) The development and use of automated accounting and case-processing systems.

(c) (1) The Judicial Council shall adopt policies and procedures governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions and may delegate the adoption to the Administrative Director of the Courts. The Administrative Director of the Courts shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

(2) The trial court policies and procedures shall specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. If the process requires a trial court to request approval of a specific transfer of existing funds, the Administrative Office of the Courts shall review the request to transfer funds and respond within 30 days of receipt of the request. The Administrative Office of the Courts shall respond to the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative Analyst's Office, the Legislature's budget committees, and the court's affected labor organizations.

(3) The Judicial Council shall circulate for comment to all affected entities any amendments proposed to the trial court policies and procedures as they relate to budget monitoring and reporting. Final changes shall be adopted at a meeting of the Judicial Council.

SEC. 147. Section 77203 of the Government Code is amended to read:

77203. The Judicial Council may authorize a trial court to carry unexpended funds over from one fiscal year to the next, provided that the court carrying over the funds has fully implemented all provisions of former Rule 991 of the California Rules of Court as it read on July 1, 1996, regarding trial court coordination.

SEC. 148. Section 77209 of the Government Code is amended to read:

77209. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The Judicial Council shall reserve funds for projects by transferring 1 percent of the amount appropriated for support for operation of the trial courts to the Trial Court Improvement Fund. At least one-half of this amount shall be set aside as a reserve that shall not be allocated prior to March 15 of each year unless allocated to a court or courts for urgent needs.

(c) Any funds in the Trial Court Improvement Fund that are unencumbered at the end of the fiscal year shall be reappropriated to the Trial Court Improvement Fund for the following fiscal year.

(d) Moneys deposited in the Trial Court Improvement Fund shall be placed in an interest-bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (e).

(e) Moneys deposited in the Trial Court Improvement Fund may be disbursed for purposes of this section.

(f) Moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council for automated administrative system improvements pursuant to that section and in furtherance of former Rule 991 of the California Rules of Court, as it read on July 1, 1996. As used in this subdivision, "automated administrative system" does not include electronic reporting systems for use in a courtroom.

(g) Moneys deposited in the Trial Court Improvement Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Director of the Courts the administration of the fund. Moneys in the fund may be expended to implement trial court projects approved by the Judicial Council. Expenditures may be made to vendors or individual trial courts that have the responsibility to implement approved projects.

(h) Notwithstanding other provisions of this section, the 2-percent automation fund moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council to statewide initiatives related to trial court automation and their implementation. The Judicial Council shall allocate the remainder of the moneys deposited in the Trial Court Improvement Fund as specified in this section.

For the purposes of this subdivision, "2-percent automation fund" means the fund established pursuant to Section 68090.8 as it read on June 30, 1996. As used in this subdivision, "statewide initiatives related to trial court automation and their implementation" does not include electronic reporting systems for use in a courtroom.

(i) Royalties received from the publication of uniform jury instructions shall be deposited in the Trial Court Improvement Fund and used for the improvement of the jury system.

(j) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

(k) Each fiscal year, the Controller shall transfer thirty-one million five hundred sixty-three thousand dollars ($31,563,000) from the Trial Court Improvement Fund to the Trial Court Trust Fund for allocation to trial courts for court operations.

SEC. 149. Section 85316 of the Government Code is amended to read:

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars ($3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars ($5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars ($20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars ($50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars ($100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars ($200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state

office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars ($100).

SEC. 150. Section 89513 of the Government Code is amended to read:

89513. This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a) (1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary

accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b) (1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses for medications, treatments or medical equipment, and expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) (1) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars ($250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

SEC. 151. Section 1250.8 of the Health and Safety Code is amended to read:

1250.8. (a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital, unless the hospital is exempt from subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph, the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than 15 miles apart. If an applicant provides evidence satisfactory to the department that it can comply with all requirements of licensure and provide quality care and adequate administrative and professional supervision, the director may issue a single consolidated license to a general acute care hospital that operates two or more physical plants located more than 15 miles apart under any of the following circumstances:

(A) One or more of the physical plants is located in a rural area, as defined by regulations of the director.

(B) One or more of the physical plants provides only outpatient services, as defined by the department.

(C) If Section 14105.986 of the Welfare and Institutions Code is implemented and the applicant meets all of the following criteria:

(i) The applicant is a nonprofit corporation.

(ii) The applicant is a children's hospital listed in Section 10727 of the Welfare and Institutions Code.

(iii) The applicant is affiliated with a major university medical school, and located adjacent thereto.

(iv) The applicant operates a regional tertiary care facility.

(v) One of the physical plants is located in a county that has a consolidated and county government structure.

(vi) One of the physical plants is located in a county having a population between 1 million and 2 million.

(vii) The applicant is located in a city with a population between 50,000 and 100,000.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this

section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985–86 Regular Session of the Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985–86 Regular Session of the Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be

granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to any facility, or any service provided in any facility, which is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) of any facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to any facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

(*l*) Notwithstanding any other provision of law, the director may issue a single consolidated license for a general acute care hospital to Children's Hospital Oakland and San Ramon Regional Medical Center.

(m) Notwithstanding any other provision of law, the director may issue a single consolidated license for a general acute care hospital to Children's Hospital Oakland and the John Muir Medical Center, Concord campus.

(n) (1) To the extent permitted by federal law, payments made to Children's Hospital Oakland pursuant to Section 14166.11 of the Welfare and Institutions Code shall be adjusted as follows:

(A) The number of Medi-Cal payment days and net revenues calculated for the John Muir Medical Center, Concord campus, under the consolidated license shall not be used for eligibility purposes for the private hospital disproportionate share hospital replacement funds for Children's Hospital Oakland.

(B) The number of Medi-Cal payment days calculated for hospital beds located at John Muir Medical Center, Concord campus, that are included in the consolidated license beginning in the 2007–08 fiscal year shall only be used for purposes of calculating disproportionate share

hospital payments authorized under Section 14166.11 of the Welfare and Institutions Code at Children's Hospital Oakland to the extent that the inclusion of those days does not exceed the total Medi-Cal payment days used to calculate Children's Hospital Oakland payments for the 2006–07 fiscal year disproportionate share replacement.

(2) This subdivision shall become inoperative in the event that the two facilities covered under the consolidated license described in subdivision (a) are located within a 15-mile radius of each other.

SEC. 152. Section 1262.4 of the Health and Safety Code is amended 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 services agency, health care service provider, or nonprofit social services provider within the other county, without prior notification to, and authorization from, the social services agency, health care service provider, or nonprofit social services 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. 153. 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 on 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 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 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 paragraph (3) of subdivision (a) is 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. 154. Section 1265.6 of the Health and Safety Code is amended 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 a 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. 155. 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 State Department of Health Services, 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 State Department of Health Services, Licensing and Certification Program Fund shall be deposited as revenue into the account to support the Licensing and Certification Program's operation.

SEC. 156. Section 1279.1 of the Health and Safety Code is amended to read:

1279.1. (a) A health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 shall report an adverse event to the department no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health,

or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For purposes of this section, "adverse event" includes any of the following:

(1) Surgical events, including the following:

(A) Surgery performed on a wrong body part that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action that occurs in the course of surgery or a situation that is so urgent as to preclude obtaining informed consent.

(B) Surgery performed on the wrong patient.

(C) The wrong surgical procedure performed on a patient, which is a surgical procedure performed on a patient that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action that occurs in the course of surgery, or a situation that is so urgent as to preclude the obtaining of informed consent.

(D) Retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained.

(E) Death during or up to 24 hours after induction of anesthesia after surgery of a normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric disturbance and for whom the pathologic processes for which the operation is to be performed are localized and do not entail a systemic disturbance.

(2) Product or device events, including the following:

(A) Patient death or serious disability associated with the use of a contaminated drug, device, or biologic provided by the health facility when the contamination is the result of generally detectable contaminants in the drug, device, or biologic, regardless of the source of the contamination or the product.

(B) Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended. For purposes of this subparagraph, "device" includes, but is not limited to, a catheter, drain, or other specialized tube, infusion pump, or ventilator.

(C) Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a facility, excluding deaths associated with neurosurgical procedures known to present a high risk of intravascular air embolism.

(3) Patient protection events, including the following:

(A) An infant discharged to the wrong person.

(B) Patient death or serious disability associated with patient disappearance for more than four hours, excluding events involving adults who have competency or decisionmaking capacity.

(C) A patient suicide or attempted suicide resulting in serious disability while being cared for in a health facility due to patient actions after admission to the health facility, excluding deaths resulting from self-inflicted injuries that were the reason for admission to the health facility.

(4) Care management events, including the following:

(A) A patient death or serious disability associated with a medication error, including, but not limited to, an error involving the wrong drug, the wrong dose, the wrong patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of administration, excluding reasonable differences in clinical judgment on drug selection and dose.

(B) A patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products.

(C) Maternal death or serious disability associated with labor or delivery in a low-risk pregnancy while being cared for in a facility, including events that occur within 42 days postdelivery and excluding deaths from pulmonary or amniotic fluid embolism, acute fatty liver of pregnancy, or cardiomyopathy.

(D) Patient death or serious disability directly related to hypoglycemia, the onset of which occurs while the patient is being cared for in a health facility.

(E) Death or serious disability, including kernicterus, associated with failure to identify and treat hyperbilirubinemia in neonates during the first 28 days of life. For purposes of this subparagraph, "hyperbilirubinemia" means bilirubin levels greater than 30 milligrams per deciliter.

(F) A Stage 3 or 4 ulcer, acquired after admission to a health facility, excluding progression from Stage 2 to Stage 3 if Stage 2 was recognized upon admission.

(G) A patient death or serious disability due to spinal manipulative therapy performed at the health facility.

(5) Environmental events, including the following:

(A) A patient death or serious disability associated with an electric shock while being cared for in a health facility, excluding events involving planned treatments, such as electric countershock.

(B) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by a toxic substance.

(C) A patient death or serious disability associated with a burn incurred from any source while being cared for in a health facility.

(D) A patient death associated with a fall while being cared for in a health facility.

(E) A patient death or serious disability associated with the use of restraints or bedrails while being cared for in a health facility.

(6) Criminal events, including the following:

(A) Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider.

(B) The abduction of a patient of any age.

(C) The sexual assault on a patient within or on the grounds of a health facility.

(D) The death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of a facility.

(7) An adverse event or series of adverse events that cause the death or serious disability of a patient, personnel, or visitor.

(c) The facility shall inform the patient or the party responsible for the patient of the adverse event by the time the report is made.

(d) "Serious disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or the loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from an inpatient health care facility, or the loss of a body part.

(e) Nothing in this section shall be interpreted to change or otherwise affect hospital reporting requirements regarding reportable diseases or unusual occurrences, as provided in Section 70737 of Title 22 of the California Code of Regulations. The department shall review Section 70737 of Title 22 of the California Code of Regulations requiring hospitals to report "unusual occurrences" and consider amending the section to enhance the clarity and specificity of this hospital reporting requirement.

SEC. 157. 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, 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 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 (A) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (B) 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 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 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. 158. 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.

(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.

(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. 159. Section 1597.46 of the Health and Safety Code is amended to read:

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors:

spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. A hearing on the application for a permit issued pursuant to this paragraph shall not be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any, of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

SEC. 160. Section 1604.6 of the Health and Safety Code is amended to read:

1604.6. (a) Notwithstanding any other provision of law, in order to provide umbilical cord blood banking storage services, a blood bank shall be licensed pursuant to this chapter. Any additional standards for blood banks to store umbilical cord blood may be implemented by the department through the adoption of regulations.

(b) (1) The department may adopt emergency regulations to implement and make specific subdivision (a) in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the Administrative Procedure

Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(2) (A) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing.

(B) Emergency regulations adopted pursuant to this section shall become effective immediately upon filing by the Secretary of State, shall be subject to public hearing within 120 days of filing with the Secretary of State, and shall comply with Sections 11346.8 and 11346.9 of the Government Code, or shall be repealed by the department.

(3) The Office of Administrative Law shall provide for the printing and publication of emergency regulations adopted pursuant to this section in the California Code of Regulations.

(4) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and subject to subparagraph (B) of paragraph (2), the emergency regulations adopted pursuant to this subdivision shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

SEC. 161. Section 11162.1 of the Health and Safety Code is amended to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form and the following quantities shall appear:

1–24
25–49
50–74
75–100
101–150
151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons preprinted on the form.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number,

and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and quantity of controlled substance prescription forms issued to each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on July 1, 2004.

SEC. 162. Section 11592 of the Health and Safety Code is amended to read:

11592. Any person who, on or after the effective date of this section is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses described in Section 11590 shall, prior to such discharge, parole, or release, be informed of his or her duty to register under that section by the official in charge of the place of confinement and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report that address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

SEC. 163. Section 11773.1 of the Health and Safety Code is amended to read:

11773.1. (a) The department may accept voluntary contributions, in cash or in-kind, to pay for the costs of implementing the program under this article. Voluntary contributions shall be deposited into the California Methamphetamine Abuse Prevention Account, which is hereby created in the State Treasury. Only private moneys, donated for the

purposes of this article, may be deposited into the account. Moneys in the account are hereby appropriated to the department for the purposes of this article for the 2006–07 fiscal year. The Legislature may appropriate moneys in the account for subsequent fiscal years in the annual Budget Act or any other act.

(b) Notwithstanding subdivision (a), during the 2006–07 fiscal year, the department shall develop and implement the campaign established under this article only upon a determination by the Director of Finance that sufficient private donations have been collected and deposited into the California Methamphetamine Abuse Prevention Account. If sufficient funds are collected and deposited, the Director of Finance shall file a written notice thereof with the Secretary of State.

(c) Except as provided in subdivision (b) of Section 11773.2, for purposes of this article, "sufficient private donations" means funds in the amount of at least twelve million dollars ($12,000,000).

SEC. 164. Section 18080.5 of the Health and Safety Code is amended to read:

18080.5. (a) A numbered report of sale, lease, or rental form issued by the department shall be submitted each time the following transactions occur by or through a dealer:

(1) Whenever a manufactured home, mobilehome, or commercial coach previously registered pursuant to this part is sold, leased with an option to buy, or otherwise transferred.

(2) Whenever a manufactured home, mobilehome, or commercial coach not previously registered in this state is sold, rented, leased, leased with an option to buy, or otherwise transferred.

(b) The numbered report of sale, lease, or rental forms shall be used and distributed in accordance with the following terms and conditions:

(1) A copy of the form shall be delivered to the purchaser.

(2) All fees and penalties due for the transaction that were required to be reported with the report of sale, lease, or rental form shall be paid to the department within 10 calendar days from the date the transaction is completed, as specified by subdivision (e). Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the consumer for those penalties.

(3) Notice of the registration or transfer of a manufactured home or mobilehome shall be reported pursuant to subdivision (d).

(4) The original report of sale, lease, or rental form, together with all required documents to report the transaction or make application to register or transfer a manufactured home, mobilehome, or commercial coach, shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date the transaction was required to be reported, as defined by subdivision (e).

(c) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale, lease, or rental may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(d) In addition to the other requirements of this section, every dealer upon transferring by sale, lease, or otherwise any manufactured home or mobilehome shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home or mobilehome is to be installed. The written notice shall be upon forms provided by the department containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(e) Except for transactions subject to Section 18035.26, for purposes of this section, a transaction by or through a dealer shall be deemed completed and consummated and any fees and the required report of sale, lease, or rental are due when any of the following occurs:

(1) The purchaser of any commercial coach has signed a purchase contract or security agreement or paid any purchase price, the lessee of a new commercial coach has signed a lease agreement or lease with an option to buy or paid any purchase price, or the lessee of a used commercial coach has either signed a lease with an option to buy or paid any purchase price, and the purchaser or lessee has taken physical possession or delivery of the commercial coach.

(2) For sales subject to Section 18035, when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account.

(3) For sales subject to Section 18035.2, when the installation is complete and a certificate of occupancy is issued.

SEC. 165. Section 38505 of the Health and Safety Code is amended to read:

38505. For the purposes of this division, the following terms have the following meanings:

(a) "Allowance" means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(b) "Alternative compliance mechanism" means an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emission reduction, and that is approved by the state board. "Alternative compliance mechanism" includes, but is not limited to, a

flexible compliance schedule, alternative control technology, a process change, or a product substitution.

(c) "Carbon dioxide equivalent" means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

(d) "Cost-effective" or "cost-effectiveness" means the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential.

(e) "Direct emission reduction" means a greenhouse gas emission reduction action made by a greenhouse gas emission source at that source.

(f) "Emissions reduction measure" means programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this division, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

(g) "Greenhouse gas" or "greenhouse gases" includes all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(h) "Greenhouse gas emissions limit" means an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the state board, expressed in tons of carbon dioxide equivalents.

(i) "Greenhouse gas emission source" or "source" means any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established under this division will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit.

(j) "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state.

(k) "Market-based compliance mechanism" means either of the following:

(1) A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.

(2) Greenhouse gas emissions exchanges, banking, credits, and other transactions, governed by rules and protocols established by the state board, that result in the same greenhouse gas emission reduction, over the same time period, as direct compliance with a greenhouse gas emission limit or emission reduction measure adopted by the state board pursuant to this division.

(*l*) "State board" means the State Air Resources Board.

(m) "Statewide greenhouse gas emissions" means the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

(n) "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the maximum allowable level of statewide greenhouse gas emissions in 2020, as determined by the state board pursuant to Part 3 (commencing with Section 38550).

SEC. 166. Section 43869 of the Health and Safety Code is amended to read:

43869. (a) 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:

(1) 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:

(A) 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.

(B) (i) 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.

(ii) 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 clause, 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.

(iii) 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 this clause for a period of not more than five years and may extend the exemption for up to five additional years.

(C) Prohibit hydrogen fuel producers from counting as a renewable energy resource, pursuant to clause (i) of subparagraph (B), 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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 paragraph, 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.

(2) 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 paragraph, the regulations, at a minimum, shall do all of the following:

(A) 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.

(B) 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.

(C) Prohibit hydrogen fuel producers from counting as a renewable energy resource, for the purposes of subparagraph (B), 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.

(D) 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.

(E) 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.

(F) 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 paragraph, 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.

(G) Authorize the state board, if it determines that reporting is necessary to facilitate enforcement of the requirements of this paragraph, 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.

(b) Notwithstanding paragraph (2) of subdivision (a), the state board may increase the 3,500-metric-ton threshold in paragraph (2) of subdivision (a) 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.

(c) The state board, in consultation with other relevant agencies as appropriate, shall review the renewable resource requirements adopted pursuant to this section 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.

(d) The state board shall review the emission requirements adopted pursuant to this section 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 otherwise consistent with this section.

(e) 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 this section. This handbook shall be made available on the agency's Internet Web site on or before July 1, 2009.

(f) 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.

(g) 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.

(h) 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.

SEC. 167. Section 44525.6 of the Health and Safety Code is amended to read:

44525.6. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (g) of Section 44526 describing the total amount of loans issued pursuant to subdivision (g) of Section 44526 in the previous calendar year, the amount of each loan issued, and a description of the programs awarded funding.

(b) 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. 168. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) Moneys deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to Chapter 5 (commencing with Section 50600) of Part 2.

(B) Twenty million dollars ($20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

(C) Twenty-five million dollars ($25,000,000) shall be used for matching grants to local housing trust funds pursuant to Section 50843.

(D) Fifteen million dollars ($15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

(i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, "University of California" includes the Hastings College of the Law.

(iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

(iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

(v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision (a) for the Downtown Rebound Program as set forth in paragraph (3) of subdivision (a) of Section 50898.1.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund created by Section 50661 for general use in the Multifamily Housing Program.

(2) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(3) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for supportive housing projects under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to serve individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness.

(4) Two hundred million dollars ($200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations. If, after July 1, 2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the moneys allocated by this subparagraph, the department shall receive fifteen million dollars ($15,000,000) for these purposes subject to the following conditions and requirements:

(i) The amount available to the department as a recipient shall be limited to ten million seven hundred thousand dollars ($10,700,000) prior to September 1, 2006. The department may receive up to four million three hundred thousand dollars ($4,300,000) in additional funds after that date and prior to July 1, 2007, to the extent that unencumbered funds are available.

(ii) The department shall make at least eight million one hundred fifty-nine thousand dollars ($8,159,000) available for flexible loans and grants for projects that serve migratory agricultural workers pursuant to subdivision (a) of Section 50517.10. These funds shall be available for encumbrance until September 1, 2006.

(iii) Any funds allocated by this subparagraph remaining unencumbered on July 1, 2007, shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(B) Twenty million dollars ($20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program. Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Except as provided in subparagraph (A), funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars ($205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars ($75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to Chapter 4.5 (commencing with Section 50860) of Part 1.

(B) Five million dollars ($5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, "exterior modifications" includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(6) Five million dollars ($5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars ($290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars ($85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600). The agency may transfer these moneys as often as quarterly in amounts that shall not exceed the dollar amount of new insurance written by the agency during the preceding quarter for loans for the purchase of homes made to owner-occupant borrowers with incomes not exceeding 120 percent of the area median income, divided by the risk-to-capital ratio required for the maintenance of satisfactory credit ratings from nationally recognized credit rating services.

(C) (i) Twelve million five hundred thousand dollars ($12,500,000) shall be reserved for downpayment assistance to low-income first-time home buyers who, as documented to the agency by a nonprofit organization certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization and who have received home ownership counseling from the nonprofit organization. Community revitalization areas shall be limited to targeted neighborhoods identified by qualified nonprofit organizations as those neighborhoods in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families.

(ii) Effective January 1, 2004, 50 percent of the funds available pursuant to clause (i) shall be available for downpayment assistance in an amount not to exceed 6 percent of the home sale price.

(iii) After 12 months of availability, if more than 50 percent of the funds set aside pursuant to clause (ii) have been encumbered, the agency shall discontinue that program and make all remaining funds available for downpayment assistance pursuant to clause (i). If, however, less than 50 percent of the funds allocated pursuant to clause (ii) are encumbered after that 12-month period, the agency may, at its sole discretion, either make all remaining funds provided pursuant to clause (i) available for the purpose of clause (ii), or may continue to implement clause (ii) until all of the funds allocated for that purpose as of January 1, 2004, have been encumbered.

(D) Twenty-five million dollars ($25,000,000) shall be used for downpayment assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these

funds shall be available for the general use of the agency for the purposes of the California Homebuyer's Downpayment Assistance Program, but may also continue to be available for the purposes of Section 51505.

(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer's Downpayment Assistance Program.

(8) One hundred million dollars ($100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001–02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).

(b) No portion of the moneys allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

SEC. 169. Section 101965 of the Health and Safety Code is amended to read:

101965. In developing the plan under Section 101963, the task force shall address all of the following issues:

(a) The following factors regarding the current health of the population of the county:

(1) The population served.

(2) The health status of each population.

(3) Key health conditions that need to be addressed.

(b) The following factors regarding the economic climate and its impact on health care:

(1) The characteristics of the regional economy.

(2) Health care and the regional economy.

(c) Expenditures on health care provided to low-income persons, including all of the following aspects, as related to Los Angeles County:

(1) The Medi-Cal program and the federal State Children's Health Insurance Program.
(2) The federal Medicare Program.
(3) Other tax-supported programs.
(4) Other public support of health care programs.
(5) Charity care.
(d) Health care providers serving low-income patients, including both of the following:
(1) The public system.
(2) The private system.
(e) Effectiveness of all of the following aspects of the public health care system:
(1) Systemwide priorities.
(2) The public health and communicable disease.
(3) Preventive care.
(4) Primary care.
(5) Specialty care.
(6) Emergency and trauma care.
(7) Inpatient care.
(8) Pharmacies.
(9) Gaps in the current system of care.
(10) Disease management.
(f) The following aspects of partnerships with academic medical institutions:
(1) History.
(2) Faculty contract.
(3) Medical staff leadership.
(4) Long-term planning issues.
(g) The following issues in system financing:
(1) Adequate leveraging of local resources.
(2) Maintenance of adequate revenue, local taxes, and taxpayer equity.
(3) Out-of-county care.
(4) Operational effectiveness.
(5) Financial management and information technology.
(6) Contracts for medical staff.
(7) Additional service opportunities.
(h) The health care workforce, as follows:
(1) Demographics.
(2) Trends.
(3) Critical shortage areas.
(4) Training and development.
(i) Physical plant and facility challenges for the system, specifically a master plan for capital investment.

(j) Potential provider partnerships with all of the following:
(1) Private hospitals.
(2) Children's hospitals.
(3) Federal Department of Veterans Affairs hospitals.
(4) Academic medical centers.
(5) Community primary care.
(6) Other health care agencies.
(k) System governance, including, but not limited to:
(1) The background of system governance.
(2) The role of local government.
(3) The role of the Los Angeles County Department of Health Services.
(4) The role of county health-related commissions.
(5) The role of the state government.
(6) The role of the federal government.

SEC. 169.5. Section 106780 of the Health and Safety Code is amended to read:

106780. (a) Except as provided in Section 106790, no person may provide radon services for the general public, or represent or advertise that he or she may provide radon services unless that person meets both of the following requirements:

(1) Successfully completes the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program.

(2) Submits to the department a copy of certificate demonstrating successful completion of either program.

(b) Persons certified to provide radon services shall successfully complete and submit to the department proof of completion of the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program every two years after initial certification.

(c) A copy of the current certificate of completion shall be submitted to the department at least 14 days prior to conducting radon services within the state.

SEC. 170. Section 108680 of the Health and Safety Code is amended to read:

108680. Unless the provisions or the context otherwise requires, these definitions, rules of construction, and general provisions shall govern the construction of this chapter. As used in this chapter:

(a) "Department" means the State Department of Health.

(b) "Household substance" means any substance that is customarily produced or distributed for sale for consumption or use, or customarily stored by individuals in or about the household and is one of the following:

(1) A hazardous substance as that term is defined in Section 108125.

(2) A food, drug, or cosmetic, as those terms are defined in Sections 109900, 109925, and 109935, that (A) is toxic, (B) is corrosive, (C) is an irritant, (D) is a strong sensitizer, (E) is flammable or combustible, or (F) generates pressure through decomposition, heat, or other means; if it may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(3) A substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a residential dwelling.

(c) "Package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of household substances, also means any outer container or wrapping used in the retail display of any such substance to consumers.

"Package" does not include the following:

(1) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof.

(2) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only container or wrapping.

(d) "Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all such children cannot open or obtain a toxic or harmful amount of within a reasonable time.

(e) "Labeling" means all labels and other written, printed, or graphic matter upon any household substance or its package, or accompanying the substance.

(f) "Federal act" means the Poison Prevention Packaging Act of 1970 (15 U.S.C. Sec. 1471 et seq.).

SEC. 171. Section 109280 of the Health and Safety Code is amended to read:

109280. (a) A standardized written summary in layperson's language and in a language understood by patients shall be approved by the department. The department may approve the use of an existing publication from a recognized cancer authority as the written summary. Commencing on January 1, 2003, and every three years thereafter, the department shall review its approval of the use of an existing publication from a recognized cancer authority as the written summary to ensure that the approved written summary comprises timely, new, and revised information regarding prostate cancer treatment options as the department determines is necessary. The written summary shall be printed or made available by the Medical Board of California to physicians and surgeons, concerning the advantages, disadvantages, risks, and descriptions of procedures with regard to medically viable and efficacious alternative methods of treatment of prostate cancer. Physicians and surgeons are urged to make the summary available to patients when appropriate.

(b) The department and the Medical Board of California shall each post this summary on its Internet Web site for public use.

(c) If the department updates this summary, it shall send the updated summary to the Medical Board of California and both the department and the Medical Board of California shall each post this updated summary on its Internet Web site.

SEC. 172. Section 110552 of the Health and Safety Code is amended to read:

110552. (a) The department shall regulate candy to ensure that the candy is not adulterated.

(b) For the purposes of this chapter, "candy" means any confectionary intended for individual consumption that contains chili, tamarind, or any other ingredient identified as posing a health risk in regulations adopted by the office or department.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Office" means the Office of Environmental Health Hazard Assessment.

(2) "Adulterated candy" means any candy with lead in excess of the naturally occurring level. Moreover, candy is adulterated if its wrapper or the ink on the wrapper contains lead in excess of standards which the office, in consultation with the department and the Attorney General, shall establish by July 1, 2006.

(3) "Naturally occurring level" of lead in candy shall be determined by regulations adopted by the office after consultation with the department and the Attorney General. For purposes of this section, the "naturally occurring level" of lead in candy is only naturally occurring to the extent that it is not avoidable by good agricultural, manufacturing,

and procurement practices, or by other practices currently feasible. The producer and manufacturer of candy and candy ingredients shall at all times use quality control measures that reduce the natural chemical contaminants to the "lowest level currently feasible" as this term is used in subsection (c) of Section 110.110 of Title 21 of the Code of Federal Regulations. The "naturally occurring level" of lead shall not include any lead in an ingredient resulting from agricultural equipment, fuels used on or around soils or crops, fertilizers, pesticides, or other materials that are applied to soils or crops or added to water used to irrigate soils or crops. The office shall determine the naturally occurring levels of lead in candy containing chili and tamarind no later than July 1, 2006. The office shall determine the naturally occurring levels of lead in candy containing other ingredients upon request by the department or the Attorney General, and in the absence of a request, when the office determines that the presence of the ingredient in candy may pose a health risk. Until the office adopts regulations determining the naturally occurring level of lead, the Attorney General's written determination, if any, including any determination set forth in a consent judgment entered into by the Attorney General, of the naturally occurring level of lead in candy or in a candy ingredient shall be binding for purposes of this section.

(4) "Wrapper" means all packaging materials in contact with the candy, including, but not limited to, the paper cellophane, plastic container, stick handle, spoon, small pot (olla), and squeeze tube, or similar devices. "Wrapper" does not include any part of the packaging from which lead will not leach, as demonstrated by the manufacturer, to the satisfaction of the office.

(d) The standards adopted pursuant to paragraphs (2) and (3) of subdivision (c) shall be reviewed by the office every three-year to five-year period in order to determine whether advances in scientific knowledge, the development of better agricultural or manufacturing practices, or changes in detection limits require revision of the standards.

(e) The department shall do all of the following:

(1) Ensure that the candy is not adulterated.

(2) Establish procedures for the testing of candy and the certification of unadulterated candy products. The procedures shall require candy manufacturers to certify candy as being unadulterated. The certification shall be based on appropriate sampling and testing protocols as determined by the office in consultation with the Attorney General's office.

(3) Through its Food and Drug Branch, test the samples of candy collected pursuant to this article. The department may test any candy,

including candy tested pursuant to paragraph (3) of subdivision (e) in order to ensure the candy is unadulterated.

(4) Adopt regulations necessary for the enforcement of this article.

(5) Evaluate the regulatory process, identify problems, and make changes or report to the Legislature, as necessary.

(f) If the candy tested pursuant paragraph (2) or (3) of subdivision (e) is found to be adulterated, the department shall do both of the following:

(1) Issue health advisory notices to county health departments alerting them to the danger posed by consumption of the candy.

(2) Notify the manufacturer and the distributor of the candy that the candy is adulterated, and that the candy may not be sold or distributed in the state until further testing proves that the candy is unadulterated.

(g) (1) For any candy found to be adulterated, the manufacturer or distributor may request that the department test a subsequent sample of candy. The department shall select the candy to be tested. The cost of any subsequent sampling and testing shall be borne by the manufacturer or distributor requesting the additional testing.

(2) If the candy is found to be unadulterated when it is retested, the department shall provide the manufacturer or distributor and the county health department with a letter stating that the candy has been retested and determined to be unadulterated, and that the sale and distribution of the candy in the state may resume.

(3) If the candy is found to remain adulterated when retested, the manufacturer or distributor may take corrective measures and continue to resubmit samples for testing until tests prove the candy unadulterated.

(h) The department shall convene an interagency collaborative which is hereby established to serve as an oversight committee for the implementation of this section and to work with the office in establishing and revising the required standards. The interagency collaborative shall be composed of the following members:

(1) The department.

(2) The Childhood Lead Poisoning Branch of the department.

(3) The Food and Drug Branch of the department.

(4) The office.

(5) The office of the Attorney General.

(i) The interagency collaborative may confer with the United States Consumer Product Safety Commission, the United States Food and Drug Administration, recognized experts in the field, representatives of California community environmental justice organizations and candy manufacturers.

(j) (1) The sale of adulterated candy to California consumers is a violation of this section. Any person knowingly and intentionally selling

adulterated candy shall be subject to a civil penalty of up to five hundred dollars ($500) per violation. The regulations adopted shall provide that funding for this section shall be met in part or in whole by those penalties, upon appropriation by the Legislature.

(2) In the event that a candy product is found to be adulterated, the department may recover the costs incurred in the chemical analysis of that product from the manufacturer or distributor.

(3) Except as expressly set forth in this section, nothing in this section shall alter or diminish any legal obligation otherwise required in common law or by statute or regulation, and nothing in this section shall create or enlarge any defense in any action to enforce that legal obligation. Penalties imposed under this section shall be in addition to any penalties otherwise prescribed by law.

(4) This section shall not be the basis for any stay of proceedings or other order limiting or delaying the prosecution of any action to enforce Section 25249.6.

SEC. 173. Section 118280 of the Health and Safety Code is amended to read:

118280. To containerize biohazard bags, a person shall do all of the following:

(a) The bags shall be tied to prevent leakage or expulsion of contents during all future storage, handling, or transport.

(b) Biohazardous waste, except biohazardous waste as defined in subdivision (g) of Section 117635, shall be bagged in accordance with subdivision (b) of Section 118275 and placed for storage, handling, or transport in a rigid container that may be disposable, reusable, or recyclable. Containers shall be leak resistant, have tight-fitting covers, and be kept clean and in good repair. Containers may be recycled with the approval of the enforcement agency. Containers may be of any color and shall be labeled with the words "Biohazardous Waste" or with the international biohazard symbol and the word "BIOHAZARD" on the lid and on the sides so as to be visible from any lateral direction. Containers meeting the requirements specified in Section 66840 of Title 22 of the California Code of Regulations, as it read on December 31, 1990, may also be used until the replacement of the containers is necessary or existing stock has been depleted.

(c) Biohazardous waste shall not be removed from the biohazard bag until treatment as prescribed in Chapter 8 (commencing with Section 118215) is completed, except to eliminate a safety hazard, or by the enforcement officer in performance of an investigation pursuant to Section 117820. Biohazardous waste shall not be disposed of before being treated as prescribed in Chapter 8 (commencing with Section 118215).

(d) (1) Except as provided in paragraph (5), a person generating biohazardous waste shall comply with the following requirements:

(A) If the person generates 20 or more pounds of biohazardous waste per month, the person shall not contain or store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than seven days without obtaining prior written approval of the enforcement agency.

(B) If a person generates less than 20 pounds of biohazardous waste per month, the person shall not contain or store biohazardous waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than 30 days.

(2) A person may store biohazardous or sharps waste at or below 0° Centigrade (32° Fahrenheit) at an onsite location for not more than 90 days without obtaining prior written approval of the enforcement agency.

(3) A person may store biohazardous or sharps waste at a permitted transfer station at or below 0° Centigrade (32° Fahrenheit) for not more than 30 days without obtaining prior written approval of the enforcement agency.

(4) A person shall not store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any location or facility that is offsite from the generator for more than seven days before treatment.

(5) Notwithstanding paragraphs (1) to (4), inclusive, if the odor from biohazardous or sharps waste stored at a facility poses a nuisance, the enforcement agency may require more frequent removal.

(e) Waste that meets the definition of biohazardous waste in subdivision (g) of Section 117635 shall not be subject to the limitations on storage time prescribed in subdivision (d). A person may store that biohazardous waste at an onsite location for not longer than 90 days when the container is ready for disposal, unless prior written approval from the enforcement agency or the department is obtained. The container shall be emptied at least once a year, unless prior written approval from the enforcement agency or the department is obtained. A person may store that biohazardous waste at a permitted transfer station for not longer than 30 days without obtaining prior written approval from the enforcement agency or the department. A person shall not store that biohazardous waste at any location or facility that is offsite from the generator for more than 30 days before treatment.

(f) The containment and storage time for wastes consolidated in a common container pursuant to subdivision (h) of Section 118275 shall not exceed the storage time for any category of waste set forth in this section.

SEC. 174. Section 120155 of the Health and Safety Code, as added by Section 1 of Chapter 589 of the Statutes of 2006, is amended to read:

120155. (a) Any manufacturer or distributor of the influenza vaccine, or nonprofit health care service plan that exclusively contracts with a single medical group in a specified geographic area to provide, or to arrange for the provision of, medical services to its enrollees, shall report the information described in subdivision (c) relating to the supply of the influenza vaccine to the department upon notice from the department.

(b) Within each county or city health jurisdiction, entities that have possession of, or have a legal right to obtain possession of, the influenza vaccine, or entities that are conducting or intend to conduct influenza clinics for the public, their residents, or their employees, except those entities described in subdivision (a), shall cooperate with the local health officer in determining local inventories of influenza vaccine, including providing inventory, orders, and distribution lists in a timely manner, when necessary.

(c) The information reported pursuant to subdivision (a) shall include, but is not limited to, the amount of the influenza vaccine that has been shipped, and the name, address, and, if applicable, the telephone number of the recipient.

(d) Subdivisions (a), (b), and (c) shall not apply to a physician and surgeon practice, unless the practice is an occupational health provider who conducts influenza vaccination campaigns on behalf of a corporation.

(e) It is the intent of the Legislature in enacting this section to assist small physician and surgeon practices, nursing facilities, and other health care providers that provide care for patients at risk of illness or death from influenza by facilitating the sharing of vaccine supplies, if necessary, between providers within a local jurisdiction.

(f) If a business believes that the information required by this section involves the release of a trade secret, the business shall nevertheless disclose the information to the department, and shall notify the department in writing of that belief at the time of disclosure. As used in this section, "trade secret" has the meanings given to it by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code. Any information, including identifying information, including, but not limited to, the name of the agent or contact person of an entity that receives the influenza vaccine from a manufacturer or distributor, or nonprofit health care service plan described in subdivision (a), and the receiving entity's address and telephone number, that is reported pursuant to this section shall not be disclosed by the department to anyone, except to an officer or employee of the county, city, city and county, or the state in connection with the official duties of that officer or employee to protect the public health.

SEC. 175. Section 120440 of the Health and Safety Code is amended to read:

120440. (a) For the purposes of this chapter, the following definitions shall apply:

(1) "Health care provider" means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2) "Schools, child care facilities, and family child care homes" means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3) "WIC service provider" means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4) "Health care plan" means a health care service plan as defined in subdivision (f) of Section 1345, a government-funded program the purpose of which is paying the costs of health care, or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5) "County welfare department" means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6) "Foster care agency" means any of the county and state social services agencies providing foster care services in California.

(b) (1) Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Health Services. Local health officers and the State Department of Health Services may operate these systems in either or both of the following manners:

(A) Separately within their individual jurisdictions.

(B) Jointly among more than one jurisdiction.

(2) Nothing in this subdivision shall preclude local health officers from sharing the information set forth in paragraphs (1) to (9), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c) Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e),

health care providers, and other agencies, including, but not limited to, schools, child care facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county welfare departments, may disclose the information set forth in paragraphs (1) to (9), inclusive, from the patient's medical record, or the client's record, to local health departments operating countywide or regional immunization information and reminder systems and the State Department of Health Services. Local health departments and the State Department of Health Services may disclose the information set forth in paragraphs (1) to (9), inclusive, to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient. Local health departments and the State Department of Health Services may disclose the information in paragraphs (1) to (6), inclusive, and paragraphs (8) and (9), to schools, child care facilities, county welfare departments, and family child care homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1) The name of the patient or client and names of the parents or guardians of the patient or client.

(2) Date of birth of the patient or client.

(3) Types and dates of immunizations received by the patient or client.

(4) Manufacturer and lot number for each immunization received.

(5) Adverse reaction to immunizations received.

(6) Other nonmedical information necessary to establish the patient's or client's unique identity and record.

(7) Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(8) Patient's or client's gender.

(9) Patient's or client's place of birth.

(d) (1) Health care providers, local health departments, and the State Department of Health Services shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other medical record information with patient identification that they possess. These providers, departments, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of the

information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A) To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B) To provide or facilitate provision of third-party payer payments for immunizations.

(C) To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in California, without identifying information for these patients or clients included in these groups or populations.

(D) In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2) Schools, child care facilities, family child care homes, WIC service providers, foster care agencies, county welfare departments, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A) In the case of schools, child care facilities, family child care homes, and county welfare departments, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325), and in Section 11265.8 of the Welfare and Institutions Code.

(B) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.

(C) In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.

(D) In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers.

(e) A patient or a patient's parent or guardian may refuse to permit recordsharing. The health care provider administering immunization and

any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform the patient or client, or the parent or guardian of the patient or client, of the following:

(1) The information listed in subdivision (c) may be shared with local health departments and the State Department of Health Services. The health care provider or other agency shall provide the name and address of the State Department of Health Services or of the immunization registry with which the provider or other agency will share the information.

(2) Any of the information shared with local health departments and the State Department of Health Services shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3) The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information shared in this manner and to correct any errors in it.

(4) The patient or client, or the parent or guardian of the patient or client, may refuse to allow this information to be shared in the manner described, or to receive immunization reminder notifications at any time, or both. After refusal, the patient's or client's physician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Health Services may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(f) (1) The health care provider administering the immunization and any other agency possessing any patient or client information listed in subdivision (c), may inform the patient or client, or the parent or guardian of the patient or client, by ordinary mail, of the information in paragraphs (1) to (4), inclusive, of subdivision (e). The mailing must include a reasonable means for refusal, such as a return form or contact telephone number.

(2) The information in paragraphs (1) to (4), inclusive, of subdivision (e) may also be presented to the parent or guardian of the patient or client during any hospitalization of the patient or client.

(g) If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(h) (1) Upon request of the patient or client, or the parent or guardian of the patient or client, in writing or by other means acceptable to the recipient, a local health department or the State Department of Health Services that has received information about a person pursuant to subdivision (c) shall do all of the following:

(A) Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(B) Stop sharing the information in its possession after the date of the receipt of the request.

(2) After refusal, the patient's or client's physician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Health Services may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(i) Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the State Department of Health Services that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(j) (1) Any party authorized to make medical decisions for a patient or client, including, but not limited to, those authorized by Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section 6550), Chapter 2 (commencing with Section 6910) of Part 4, or Chapter 1 (commencing with Section 7000) of Part 6, of Division 11 of, the Family Code, Section 1530.6 of the Health and Safety Code, or Sections 727 and 1755.3 of, and Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, may permit sharing of the patient's or client's record with any of the immunization information systems authorized by this section.

(2) For a patient or client who is a dependent of a juvenile court, the court or a person or agency designated by the court may permit this recordsharing.

(3) For a patient or client receiving foster care, a person or persons licensed to provide residential foster care, or having legal custody, may permit this recordsharing.

(k) For purposes of supporting immunization information systems, the State Department of Health Services shall assist the Immunization Branch of the State Department of Health Services in both of the following:

(1) Providing department records containing information about publicly funded immunizations.

(2) Supporting efforts for the reporting of publicly funded immunizations into immunization information systems by health care providers and health care plans.

(*l*) Subject to any other provisions of state and federal law or regulation that limit the disclosure of health information and protect the privacy and confidentiality of personal information, local health departments and the State Department of Health Services may share the information listed in subdivision (c) with a state, local health departments, health care providers, immunization information systems, or any representative of an entity designated by federal or state law or regulation to receive this information. The State Department of Health Services may enter into written agreements to exchange confidential immunization information with other states for the purposes of patient care, protecting the public health, entrance into school, child care and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). The written agreement shall provide that the state that receives confidential immunization information must maintain its confidentiality and may only use it for purposes of patient care, protecting the public health, entrance into school, child care and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). Information may not be shared pursuant to this subdivision if a patient or client, or parent or guardian of a patient or client, refuses to allow the sharing of immunization information pursuant to subdivision (e).

SEC. 176. Section 124116.5 of the Health and Safety Code, as amended by Section 1 of Chapter 335 of the Statutes of 2006, is amended to read:

124116.5. (a) (1) Every general acute care hospital with licensed perinatal services in this state shall administer to every newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee.

(2) In order to meet the department's certification criteria, a general acute care hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newborn's discharge from a newborn nursery unit, refers infants with abnormal screening results, maintains and reports data as

required by the department, and provides physician and family-parent education.

(b) A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.

(c) Every general acute care hospital that has not been approved by the California Children's Services (CCS) program and that has licensed perinatal services that provide care in fewer than 100 births annually shall, if it does not directly provide a hearing screening test, enter into an agreement with an outpatient infant hearing screening provider certified by the department to provide hearing screening tests.

(d) This section shall not apply to any newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

SEC. 177. Section 124174 of the Health and Safety Code is amended to read:

124174. The following definitions shall govern the construction of this article, unless the context requires otherwise:

(a) "Program" means a Public School Health Center Support Program.

(b) "School health center" means a center or program that provides age-appropriate health care services at the program site or through referrals, and may be located at a local educational agency. A school health center may serve two or more nonadjacent schools or local educational agencies.

(c) For purposes of this section "local educational agency" shall be defined as a school, school district, charter school, or county office of education if the county office of education serves students in kindergarten, or any grades from 1 to 12, inclusive.

SEC. 178. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) In order to be eligible to receive funds under this article, a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Be located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Be a clinic that is able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, "uncompensated care" means clinic patient

visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). The department shall seek input from stakeholders to discuss any adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for any new site expansions by existing applicants.

(4) In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Development's (OSHPD's) completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A) The department shall utilize the most recent data available from OSHPD's completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data.

(B) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a

medical services study area with a population of fewer than 11 persons per square mile.

(6) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one or more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 179. Section 127400 of the Health and Safety Code is amended to read:

127400. As used in this article, the following terms have the following meanings:

(a) "Allowance for financially qualified patient" means, with respect to services rendered to a financially qualified patient, an allowance that is applied after the hospital's charges are imposed on the patient, due to the patient's determined financial inability to pay the charges.

(b) "Federal poverty level" means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(c) "Financially qualified patient" means a patient who is both of the following:

(1) A patient who is a self-pay patient, as defined in subdivision (f), or a patient with high medical costs, as defined in subdivision (g).

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(d) "Hospital" means any facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility operated by

the State Department of Mental Health or the Department of Corrections and Rehabilitation.

(e) "Office" means the Office of Statewide Health Planning and Development.

(f) "Self–pay patient" means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers' compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(g) "A patient with high medical costs" means a person whose family income does not exceed 350 percent of the federal poverty level, as defined in subdivision (c), if that individual does not receive a discounted rate from the hospital as a result of his or her third-party coverage. For these purposes, "high medical costs" means any of the following:

(1) Annual out-of-pocket costs incurred by the individual at the hospital that exceed 10 percent of the patient's family income in the prior 12 months.

(2) Annual out-of-pocket expenses that exceed 10 percent of the patient's family income, if the patient provides documentation of the patient's medical expenses paid by the patient or the patient's family in the prior 12 months.

(3) A lower level determined by the hospital in accordance with the hospital's charity care policy.

(h) "Patient's family" means the following:

(1) For persons 18 years of age and older, spouse, domestic partner, and dependent children under 21 years of age, whether living at home or not.

(2) For persons under 18 years of age, parent, caretaker relative, and other children under 21 years of age of the parent or caretaker relative.

SEC. 180. Section 127405 of the Health and Safety Code is amended to read:

127405. (a) (1) Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients, as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level, as defined in subdivision (c) of Section 127400, shall be eligible to apply for participation under each hospital's charity care policy or discount payment policy. Notwithstanding any other provision of this article, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 350 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state

the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b) Each hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.

(c) The charity care policy shall clearly state eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred-compensation plans qualified under the Internal Revenue Code, or nonqualified deferred-compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patient's monetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patient's monetary assets over the first ten thousand dollars ($10,000) be counted in determining eligibility.

(d) Each hospital shall limit expected payment for services it provides to any patient at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 124700, eligible under its discount payment policy to the amount of payment the hospital would receive for providing services from Medicare, Medi-Cal, Healthy Families, or any other government-sponsored health program of health benefits in which the hospital participates, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.

(e) Any patient, or patient's legal representative, who requests a discounted payment, charity care, or other assistance in meeting his or her financial obligation to the hospital, shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary

for the hospital to make a determination, the hospital may consider that failure in making its determination.

(1) For the purpose of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.

(2) For the purpose of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred-compensation plans qualified under the Internal Revenue Code, or nonqualified deferred-compensation plans. A hospital may require waivers or releases from the patient or the patient's family, authorizing the hospital to obtain account information from financial or commercial institutions or other entities that hold or maintain the monetary assets to verify their value. Information obtained pursuant to this paragraph regarding the assets of the patient or the patient's family shall not be used for collection.

(3) Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information specified in paragraph (1) or paragraph (2), respectively.

SEC. 181. Section 127410 of the Health and Safety Code is amended to read:

127410. (a) Each hospital shall provide patients with a written notice that shall contain information about availability of the hospital's discount payment and charity care policies, including information about eligibility, as well as contact information for a hospital employee or office from which the person may obtain further information about these policies. This written notice shall be provided in addition to the estimate provided pursuant to Section 1339.585. The notice shall also be provided to patients who receive emergency or outpatient care and who may be billed for that care, but who were not admitted. The notice shall be provided in English, and in languages other than English. The languages to be provided shall be determined in a manner similar to that required pursuant to Section 12693.30 of the Insurance Code. Written correspondence to the patient required by this article shall also be in the language spoken by the patient, consistent with Section 12693.30 of the Insurance Code and applicable state and federal law.

(b) Notice of the hospital's policy for financially qualified and self-pay patients shall be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

(1) Emergency department, if any.

(2) Billing office.

(3) Admissions office.

(4) Other outpatient settings.

SEC. 182. Section 127425 of the Health and Safety Code is amended to read:

127425. (a) Each hospital shall have a written policy about when and under whose authority patient debt is advanced for collection, whether the collection activity is conducted by the hospital, an affiliate or subsidiary of the hospital, or by an external collection agency.

(b) Each hospital shall establish a written policy defining standards and practices for the collection of debt, and shall obtain a written agreement from any agency that collects hospital receivables that it will adhere to the hospital's standards and scope of practices. The policy shall not conflict with other applicable laws and shall not be construed to create a joint venture between the hospital and the external entity, or otherwise to allow hospital governance of an external entity that collects hospital receivables. In determining the amount of a debt a hospital may seek to recover from patients who are eligible under the hospital's charity care policy or discount payment policy, the hospital may consider only income and monetary assets as limited by Section 127405.

(c) At time of billing, each hospital shall provide a written summary consistent with Section 127410, which includes the same information concerning services and charges provided to all other patients who receive care at the hospital.

(d) For a patient that lacks coverage, or for a patient that provides information that he or she may be a patient with high medical costs, as defined in this article, a hospital, any assignee of the hospital, or other owner of the patient debt, including a collection agency, shall not report adverse information to a consumer credit reporting agency or commence civil action against the patient for nonpayment at any time prior to 150 days after initial billing.

(e) If a patient is attempting to qualify for eligibility under the hospital's charity care or discount payment policy and is attempting in good faith to settle an outstanding bill with the hospital by negotiating a reasonable payment plan or by making regular partial payments of a reasonable amount, the hospital shall not send the unpaid bill to any collection agency or other assignee, unless that entity has agreed to comply with this article.

(f) (1) The hospital or other assignee which is an affiliate or subsidiary of the hospital shall not, in dealing with patients eligible under the hospital's charity care or discount payment policies, use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills.

(2) A collection agency or other assignee that is not a subsidiary or affiliate of the hospital shall not, in dealing with any patient under the

hospital's charity care or discount payment policies, use as a means of collecting unpaid hospital bills, any of the following:

(A) A wage garnishment, except by order of the court upon noticed motion, supported by a declaration file by the movant identifying the basis for which it believes that the patient has the ability to make payments on the judgment under the wage garnishment, which the court shall consider in light of the size of the judgment and additional information provided by the patient prior to, or at, the hearing concerning the patient's ability to pay, including information about probable future medical expenses based on the current condition of the patient and other obligations of the patient.

(B) Notice or conduct a sale of the patient's primary residence during the life of the patient or his or her spouse, or during the period a child of the patient is a minor, or a child of the patient who has attained the age of majority is unable to take care of himself or herself and resides in the dwelling as his or her primary residence. In the event that a person protected by this paragraph owns more than one dwelling, the primary residence shall be the dwelling that is the patient's current homestead, as defined in Section 704.710 of the Code of Civil Procedure, or was the patient's homestead at the time of the death if a person other than the patient is asserting the protections of this paragraph.

(3) This requirement does not preclude a hospital, collection agency, or other assignee from pursuing reimbursement and any enforcement remedy or remedies from third-party liability settlements, tortfeasors, or other legally responsible parties.

(g) Any extended payment plans offered by a hospital to assist patients eligible under the hospital's charity care policy, discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no insurance or high medical costs in settling outstanding past due hospital bills, shall be interest free.

(h) Nothing in this section shall be construed to diminish or eliminate any protections consumers have under existing federal and state debt collection laws, or any other consumer protections available under state or federal law. This subdivision does not limit or alter the obligation of the patient to make payments from the first date due on the obligation owing to the hospital pursuant to any contract or applicable statute, in the event that the patient fails to make payments for 90 days, or to renegotiate the payment plan.

SEC. 183. Section 1194.82 of the Insurance Code is amended to read:

1194.82. (a) An insurer may invest in notes or bonds secured by second mortgages or other second liens, including all inclusive or wraparound mortgages or liens, upon real property encumbered only by

a first mortgage or lien which meets the requirements set forth in Section 1194.81, subject to either of the following conditions:

(1) The insurer also owns the note or bond secured by the prior first mortgage or lien and the aggregate value of both loans does not exceed the loan to market value ratio requirements of Section 1194.81.

(2) The note or bond is secured by an "all-inclusive" or "wraparound" lien or mortgage which conforms to the requirements specified in subdivision (b), provided that the aggregate value of the resulting loan does not exceed the loan to market value ratio requirements of Section 1194.81.

(b) "Wraparound" and "all-inclusive" lien or mortgage refer to a loan made by an insurer to a borrower on the security of a mortgage or lien on real property other than property containing a residence of one to four units or upon which a residence of one to four units is to be constructed, where the real property is encumbered by a first mortgage or lien and which loan is subject to all of the following:

(1) There is no more than one preexisting mortgage or lien on the real property.

(2) The total amount of the obligation of the borrower to the insurer under the loan is not less than the sum of the amount disbursed by the insurer on account of the loan and the outstanding balance of the obligation secured by the preexisting lien or mortgage.

(3) The instrument evidencing the lien or mortgage by which the obligation of the borrower to the insurer under the loan is secured, is recorded, and the lien is insured under a policy of title insurance in an amount not less than the total amount of the obligation of the borrower to the insurer under the loan.

(4) The insurer either (A) pursuant to Section 2924b of the Civil Code, files for record in the office of the recorder of the county in which the real property is located a duly acknowledged request for a copy of any notice of default or of sale under the preexisting lien, (B) otherwise arranges with the recorder of any county in which the real property is located to be advised in case of the filing for record of any notice of default or of sale with respect to any obligation secured by the preexisting lien, or (C) is entitled under applicable law to receive notice of default, sale, and foreclosure of the preexisting lien.

(5) The amount disbursed by an insurer under any single wraparound or all-inclusive loan made pursuant to this section shall not exceed the greater of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus.

SEC. 184. Section 3201.81 of the Labor Code is amended to read:

3201.81. In the horse racing industry, the organization certified by the California Horse Racing Board to represent the majority of licensed

jockeys pursuant to subdivision (b) of Section 19612.9 of the Business and Professions Code is the labor organization authorized to negotiate the collective bargaining agreement establishing an alternative dispute resolution system for licensed jockeys pursuant to Section 3201.7.

SEC. 185. Section 186.9 of the Penal Code is amended to read:

186.9. As used in this chapter:

(a) "Conducts" includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any person or business regularly engaged in the delivery, transmittal, or holding of mail or packages, any person or business that conducts a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool

selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horse racing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (e) of Section 19805 of the Business and Professions Code, whether registered to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier's check, traveler's check, or money order; any personal check, stock, investment security, or negotiable instrument in bearer form or otherwise in a form in which title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. Except for foreign bank drafts and federal, state, county, or city warrants, "monetary instrument" does not include personal checks made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party's account with a financial institution.

(e) "Criminal activity" means a criminal offense punishable under the laws of this state by death or imprisonment in the state prison or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) "Foreign bank draft" means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a

bank or other financial institution located in the United States or a territory of the United States.

SEC. 186. Section 271.5 of the Penal Code is amended to read:

271.5. (a) No parent or other individual having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of Section 270, 270.5, 271, or 271a if he or she voluntarily surrenders physical custody of the child to personnel on duty at a safe-surrender site.

(b) For purposes of this section, "safe-surrender site" has the same meaning as defined in paragraph (1) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

(c) (1) For purposes of this section, "lawful custody" has the same meaning as defined in subdivision (j) of Section 1255.7 of the Health and Safety Code.

(2) For purposes of this section, "personnel" has the same meaning as defined in paragraph (3) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

SEC. 187. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides.

(B) If the person who is registering has more than one residence address at which he or she regularly resides, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides, regardless of the number of days or nights spent there. If all of the addresses are within the same jurisdiction, the person shall provide the registering authority with all of the addresses where he or she regularly resides.

(C) Every person described in paragraph (2), for the rest of his or her life while living as a transient in California shall be required to register, as follows:

(i) A transient must register, or reregister if the person has previously registered, within five working days from release from incarceration, placement or commitment, or release on probation, pursuant to paragraph

(1) of subdivision (a), except that if the person previously registered as a transient less than 30 days from the date of his or her release from incarceration, he or she does not need to reregister as a transient until his or her next required 30-day update of registration. If a transient is not physically present in any one jurisdiction for five consecutive working days, he or she must register in the jurisdiction in which he or she is physically present on the fifth working day following release, pursuant to paragraph (1) of subdivision (a). Beginning on or before the 30th day following initial registration upon release, a transient must reregister no less than once every 30 days thereafter. A transient shall register with the chief of police of the city in which he or she is physically present within that 30-day period, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, and additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is physically present upon the campus or in any of its facilities. A transient must reregister no less than once every 30 days regardless of the length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.

(ii) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with subparagraph (A) of paragraph (1) of subdivision (a). A person registered at a residence address in accordance with subparagraph (A) of paragraph (1) of subdivision (a), who becomes transient shall have five working days within which to reregister as a transient in accordance with clause (i).

(iii) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities described in clause (i). A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the annual update, a transient shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e), and the information specified in clause (iv).

(iv) A transient shall, upon registration and reregistration, provide current information as required on the Department of Justice registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does

not need to report the new place or places until the next required reregistration.

(v) Failure to comply with the requirement of reregistering every 30 days following initial registration pursuant to clause (i) shall be punished in accordance with paragraph (6) of subdivision (g). Failure to comply with any other requirement of this section shall be punished in accordance with either paragraph (1) or (2) of subdivision (g).

(vi) A transient who moves out of state shall inform, in person, the chief of police in the city in which he or she is physically present, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, within five working days, of his or her move out of state. The transient shall inform that registering agency of his or her planned destination, residence or transient location out of state, and any plans he or she has to return to California, if known. The law enforcement agency shall, within three days after receipt of this information, forward a copy of the change of location information to the Department of Justice. The department shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence or location.

(vii) For purposes of this section, "transient" means a person who has no residence. "Residence" means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

(viii) The transient registrant's duty to update his or her registration no less than every 30 days shall begin with his or her second transient update following the date this subdivision became effective.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e).

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN). The registering agency shall give the registrant a copy of the completed Department of Justice form each time the person registers or reregisters, including at the annual update.

(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. "Employed" or "carrying on a vocation" includes employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.5, 288.7, or 289, Section 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or

2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(D) (i) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A), including offenses in which the person was a principal, as defined in Section 31.

(ii) Any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(iii) (I) Except as provided in subclause (II), any person who would be required to register while residing in the state of conviction for a sex offense committed in that state.

(II) Notwithstanding subclause (I), a person convicted in another state of an offense similar to one of the following offenses who is required to register in the state of conviction shall not be required to register in California unless the out-of-state offense contains all of the elements of a registerable California offense described in subparagraph (A):

(aa) Indecent exposure, pursuant to Section 314.

(ab) Unlawful sexual intercourse, pursuant to Section 261.5.

(ac) Incest, pursuant to Section 285.

(ad) Sodomy, pursuant to Section 286, or oral copulation, pursuant to Section 288a, provided that the offender notifies the Department of Justice that the sodomy or oral copulation conviction was for conduct between consenting adults, as described in subparagraph (G) and the

department is able, upon the exercise of reasonable diligence, to verify that fact.

(ae) Pimping, pursuant to Section 266h, or pandering, pursuant to Section 266i.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(F) Any person required to register pursuant to any provision of this section, regardless of whether the person's conviction has been dismissed pursuant to Section 1203.4, unless the person obtains a certificate of rehabilitation and is entitled to relief from registration pursuant to Section 290.5.

(G) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, that demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized.

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local

law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person to the Department of Justice.

(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement

agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.

(c) (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The probation officer shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(2) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is granted conditional release without supervised probation, or discharged upon payment of a fine, shall, prior to release or discharge, be informed of the duty to register under this section in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. If the court finds that it is in the interest of the efficiency of the court, the court may assign the bailiff to require the person to read and sign forms under this section. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Division of Juvenile Justice to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the Division of Juvenile Justice, to the custody of which he or she was committed because of an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Division of Juvenile Justice, any person who is subject to registration under this subdivision shall be informed of the duty to register under the procedures set forth in this section. Division of Juvenile Justice officials shall transmit the required forms and information to the Department of Justice.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering

official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of all of the following:

(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.

(B) The fingerprints and a current photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to paragraph (1) of subdivision (a). This paragraph shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by paragraph (1) of subdivision (a), he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subparagraph (D) of paragraph (1) of subdivision (a), did not fall within that incarceration period. The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(B) The fingerprints and a current photograph of the person taken by the registering official.

(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a

residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) (1) (A) Any person who was last registered at a residence address pursuant to this section who changes his or her residence address, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, shall, in person, within five working days of the move, inform the law enforcement agency or agencies with which he or she last registered of the move, the new address or transient location, if known, and any plans he or she has to return to California.

(B) If the person does not know the new residence address or location at the time of the move, the registrant shall, in person, within five working days of the move, inform the last registering agency or agencies that he or she is moving. The person shall later notify the last registering agency or agencies, in writing, sent by certified or registered mail, of the new address or location within five working days of moving into the new residence address or location, whether temporary or permanent.

(C) The law enforcement agency or agencies shall, within three working days after receipt of this information, forward a copy of the change of address information to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(2) If the person's new address is in a Division of Juvenile Justice facility or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Division of Juvenile Justice facility or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or

agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraphs (5), (7), and (9), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(5) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) Except as otherwise provided in paragraph (5), any person who is required to register or reregister pursuant to clause (i) of subparagraph (C) of paragraph (1) of subdivision (a) and willfully fails to comply with the requirement that he or she reregister no less than every 30 days is guilty of a misdemeanor and shall be punished by imprisonment in a county jail at least 30 days, but not exceeding six months. A person who willfully fails to comply with the requirement that he or she reregister no less than every 30 days shall not be charged with this violation more often than once for a failure to register in any period of 90 days. Any person who willfully commits a third or subsequent violation of the requirements of subparagraph (C) of paragraph (1) of subdivision (a) that he or she reregister no less than every 30 days shall be punished in accordance with either paragraph (1) or (2) of this subdivision.

(7) Any person who fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense as to each requirement he or she violated.

(9) In addition to any other penalty imposed under this subdivision, the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as otherwise provided by law, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or whatever the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to 5 working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crime or crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before June 1, 2010, the Department of Justice shall renovate the VCIN to do the following:

(1) Correct all software deficiencies affecting data integrity and include designated data fields for all mandated sex offender data.

(2) Consolidate and simplify program logic, thereby increasing system performance and reducing system maintenance costs.

(3) Provide all necessary data storage, processing, and search capabilities.

(4) Provide law enforcement agencies with full Internet access to all sex offender data and photos.

(5) Incorporate a flexible design structure to readily meet future demands for enhanced system functionality, including public Internet access to sex offender information pursuant to Section 290.46.

SEC. 188. Section 295 of the Penal Code is amended to read:

295. (a) This chapter shall be known and may be cited as the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(b) The people of the State of California set forth all of the following:

(1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a useful law enforcement tool for identifying and prosecuting criminal offenders and exonerating the innocent.

(2) It is the intent of the people of the State of California, in order to further the purposes of this chapter, to require DNA and forensic identification data bank samples from all persons, including juveniles, for the felony and misdemeanor offenses described in subdivision (a) of Section 296.

(3) It is necessary to enact this act defining and governing the state's DNA and forensic identification database and data bank in order to clarify existing law and to enable the state's DNA and Forensic Identification Database and Data Bank Program to become a more effective law enforcement tool.

(c) The purpose of the DNA and Forensic Identification Database and Data Bank Program is to assist federal, state, and local criminal justice and law enforcement agencies within and outside California in the expeditious and accurate detection and prosecution of individuals responsible for sex offenses and other crimes, the exclusion of suspects who are being investigated for these crimes, and the identification of missing and unidentified persons, particularly abducted children.

(d) Like the collection of fingerprints, the collection of DNA samples pursuant to this chapter is an administrative requirement to assist in the accurate identification of criminal offenders.

(e) Unless otherwise requested by the Department of Justice, collection of biological samples for DNA analysis from qualifying persons under this chapter is limited to collection of inner cheek cells of the mouth (buccal swab samples).

(f) The Department of Justice DNA Laboratory may obtain through federal, state, or local law enforcement agencies blood specimens from qualifying persons as defined in subdivision (a) of Section 296, and according to procedures set forth in Section 298, when it is determined in the discretion of the Department of Justice that such specimens are

necessary in a particular case or would aid the department in obtaining an accurate forensic DNA profile for identification purposes.

(g) The Department of Justice, through its DNA Laboratory, shall be responsible for the management and administration of the state's DNA and Forensic Identification Database and Data Bank Program and for liaison with the Federal Bureau of Investigation (FBI) regarding the state's participation in a national or international DNA database and data bank program such as the FBI's Combined DNA Index System (CODIS) that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories nationwide.

(h) The Department of Justice shall be responsible for implementing this chapter.

(1) The Department of Justice DNA Laboratory, and the Department of Corrections and Rehabilitation may adopt policies and enact regulations for the implementation of this chapter, as necessary, to give effect to the intent and purpose of this chapter, and to ensure that data bank blood specimens, buccal swab samples, and thumb and palm print impressions as required by this chapter are collected from qualifying persons in a timely manner, as soon as possible after arrest, conviction, or a plea or finding of guilty, no contest, or not guilty by reason of insanity, or upon any disposition rendered in the case of a juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for commission of any of this chapter's enumerated qualifying offenses, including attempts, or when it is determined that a qualifying person has not given the required specimens, samples or print impressions. Before adopting any policy or regulation implementing this chapter, the Department of Corrections and Rehabilitation shall seek advice from and consult with the Department of Justice DNA Laboratory Director.

(2) Given the specificity of this chapter, and except as provided in subdivision (c) of Section 298.1, any administrative bulletins, notices, regulations, policies, procedures, or guidelines adopted by the Department of Justice and its DNA Laboratory or the Department of Corrections and Rehabilitation for the purpose of the implementing this chapter are exempt from the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The Department of Corrections and Rehabilitation shall submit copies of any of its policies and regulations with respect to this chapter to the Department of Justice DNA Laboratory Director, and quarterly shall submit to the director written reports updating the director as to the status of its compliance with this chapter.

(4) On or before April 1 in the year following adoption of the act that added this paragraph, and quarterly thereafter, the Department of Justice DNA Laboratory shall submit a quarterly report to be published electronically on a Department of Justice Internet Web site and made available for public review. The quarterly report shall state the total number of samples received, the number of samples received from the Department of Corrections and Rehabilitation, the number of samples fully analyzed for inclusion in the CODIS database, and the number of profiles uploaded into the CODIS database for the reporting period. Each quarterly report shall state the total, annual, and quarterly number of qualifying profiles in the Department of Justice DNA Laboratory data bank both from persons and case evidence, and the number of hits and investigations aided, as reported to the National DNA Index System. The quarterly report shall also confirm the laboratory's accreditation status and participation in CODIS and shall include an accounting of the funds collected, expended, and disbursed pursuant to subdivision (k).

(5) On or before April 1 in the year following adoption of the act that added this paragraph, and quarterly thereafter, the Department of Corrections and Rehabilitation shall submit a quarterly report to be published electronically on a Department of Corrections and Rehabilitation Internet Web site and made available for public review. The quarterly report shall state the total number of inmates housed in state correctional facilities, including a breakdown of those housed in state prisons, camps, community correctional facilities, and other facilities such as prisoner mother facilities. Each quarterly report shall also state the total, annual, and quarterly number of inmates who have yet to provide specimens, samples and print impressions pursuant to this chapter and the number of specimens, samples and print impressions that have yet to be forwarded to the Department of Justice DNA Laboratory within 30 days of collection.

(i) (1) When the specimens, samples, and print impressions required by this chapter are collected at a county jail or other county facility, including a private community correctional facility, the county sheriff or chief administrative officer of the county jail or other facility shall be responsible for ensuring all of the following:

(A) The requisite specimens, samples, and print impressions are collected from qualifying persons immediately following arrest, conviction, or adjudication, or during the booking or intake or reception center process at that facility, or reasonably promptly thereafter.

(B) The requisite specimens, samples, and print impressions are collected as soon as administratively practicable after a qualifying person reports to the facility for the purpose of providing specimens, samples, and print impressions.

(C) The specimens, samples, and print impressions collected pursuant to this chapter are forwarded immediately to the Department of Justice, and in compliance with department policies.

(2) The specimens, samples, and print impressions required by this chapter shall be collected by a person using a collection kit approved by the Department of Justice and in accordance with the requirements and procedures set forth in subdivision (b) of Section 298.

(3) The counties shall be reimbursed for the costs of obtaining specimens, samples, and print impressions subject to the conditions and limitations set forth by the Department of Justice policies governing reimbursement for collecting specimens, samples, and print impressions pursuant to Section 76104.6 of the Government Code.

(j) The trial court may order that a portion of the costs assessed pursuant to Section 1203.1c, 1203.1e, or 1203.1m include a reasonable portion of the cost of obtaining specimens, samples, and print impressions in furtherance of this chapter and the funds collected pursuant to this subdivision shall be deposited in the DNA Identification Fund as created by Section 76104.6 of the Government Code.

(k) The Department of Justice DNA Laboratory shall be known as the Jan Bashinski DNA Laboratory.

SEC. 189. Section 298.1 of the Penal Code is amended to read:

298.1. (a) As of the effective date of this chapter, any person who refuses to give any or all of the following, blood specimens, saliva samples, or thumb or palm print impressions as required by this chapter, once he or she has received written notice from the Department of Justice, the Department of Corrections and Rehabilitation, any law enforcement personnel, or officer of the court that he or she is required to provide specimens, samples, and print impressions pursuant to this chapter is guilty of a misdemeanor. The refusal or failure to give any or all of the following, a blood specimen, saliva sample, or thumb or palm print impression is punishable as a separate offense by both a fine of five hundred dollars ($500) and imprisonment of up to one year in a county jail, or if the person is already imprisoned in the state prison, by sanctions for misdemeanors according to a schedule determined by the Department of Corrections and Rehabilitation.

(b) (1) Notwithstanding subdivision (a), authorized law enforcement, custodial, or corrections personnel, including peace officers as defined in Sections 830, 830.1, subdivision (d) of Section 830.2, Sections 830.5, 830.38, or 830.55, may employ reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions pursuant to this chapter from individuals who, after written or oral request, refuse to provide those specimens, samples, or thumb or palm print impressions.

(2) The withdrawal of blood shall be performed in a medically approved manner in accordance with the requirements of paragraph (2) of subdivision (b) of Section 298.

(3) The use of reasonable force as provided in this subdivision shall be carried out in a manner consistent with regulations and guidelines adopted pursuant to subdivision (c).

(c) (1) The Department of Corrections and Rehabilitation and the Division of Juvenile Justice shall adopt regulations governing the use of reasonable force as provided in subdivision (b), which shall include the following:

(A) "Use of reasonable force" shall be defined as the force that an objective, trained, and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this chapter.

(B) The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.

(C) The use of reasonable force shall be preceded by efforts to secure voluntary compliance with this section.

(D) If the use of reasonable force includes a cell extraction, the regulations shall provide that the extraction be videotaped.

(2) The Corrections Standards Authority shall adopt guidelines governing the use of reasonable force as provided in subdivision (b) for local detention facilities, which shall include the following:

(A) "Use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this chapter.

(B) The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.

(C) The use of reasonable force shall be preceded by efforts to secure voluntary compliance with this section.

(D) If the use of reasonable force includes a cell extraction, the extraction shall be videotaped.

(3) The Department of Corrections and Rehabilitation, the Division of Juvenile Justice, and the Corrections Standards Authority shall report to the Legislature not later than January 1, 2005, on the use of reasonable force pursuant to this section. The report shall include, but is not limited

to, the number of refusals, the number of incidents of the use of reasonable force under this section, the type of force used, the efforts undertaken to obtain voluntary compliance, if any, and whether any medical attention was needed by the prisoner or personnel as a result of force being used.

SEC. 190. Section 374.5 of the Penal Code is amended to read:

374.5. (a) It is unlawful for any grease waste hauler to do either of the following:

(1) Reinsert, deposit, dump, place, release, or discharge into a grease trap, grease interceptor, manhole, cleanout, or other sanitary sewer appurtenance any materials that the hauler has removed from the grease trap or grease interceptor, or to cause those materials to be so handled.

(2) Cause or permit to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any waters of the state, any materials that the hauler has removed from the grease trap or grease interceptor, or to cause those materials to be so handled.

(b) The prohibition in subdivision (a), as it pertains to reinsertion of material removed from a grease trap or grease interceptor, shall not apply to a grease waste hauler if all of the following conditions are met:

(1) The local sewer authority having jurisdiction over the pumping and disposal of the material specifically allows a registered grease waste hauler to obtain written approval for the reinsertion of decanted liquid.

(2) The local sewer authority has determined that, if reinsertion is allowed, it is feasible to enforce local discharge limits for fats, oil, and grease, if any, and other local requirements for best management or operating practices, if any.

(3) The grease waste hauler is registered pursuant to Section 19310 of the Food and Agricultural Code.

(4) The registered grease waste hauler demonstrates to the satisfaction of the local sewer authority all of the following:

(A) It will use equipment that will adequately separate the water from the grease waste and solids in the material so as to comply with applicable regulations.

(B) Its employees are adequately trained in the use of that equipment.

(5) The registered grease waste hauler demonstrates both of the following:

(A) It has informed the managerial personnel of the owner or operator of the grease trap or interceptor, in writing, that the grease waste hauler may reinsert the decanted materials, unless the owner or operator objects to the reinsertion.

(B) The owner or operator has not objected to the reinsertion of the decanted materials. If the owner or operator of the grease trap or

interceptor objects to the reinsertion, no decanted material may be inserted in that grease trap or interceptor.

(c) A grease waste hauler shall not transport grease removed from a grease trap or grease interceptor in the same vehicle used for transporting other waste, including, but not limited to, yellow grease, cooking grease, recyclable cooking oil, septic waste, or fluids collected at car washes.

(d) For purposes of this section, a "grease waste hauler" is a transporter of inedible kitchen grease subject to registration requirements pursuant to Section 19310 of the Food and Agricultural Code.

(e) Any person who violates this section shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months or a fine of not more than ten thousand dollars ($10,000), or both a fine and imprisonment.

A second and subsequent conviction, shall be punishable by imprisonment in a county jail for not more than one year, or a fine of not more than twenty-five thousand dollars ($25,000), or both a fine and imprisonment.

(f) Notwithstanding Section 1463, the fines paid pursuant to this section shall be apportioned as follows:

(1) Fifty percent shall be deposited in the Environmental Enforcement and Training Account established pursuant to Section 14303, and used for purposes of Title 13 (commencing with Section 14300) of Part 4.

(2) Twenty-five percent shall be distributed pursuant to Section 1463.001.

(3) Twenty-five percent to the local health officer or other local public officer or agency that investigated the matter which led to bringing the action.

(g) If the court finds that the violator has engaged in a practice or pattern of violation, consisting of two or more convictions, the court may bar the violating individual or business from engaging in the business of grease waste hauling for a period not to exceed five years.

(h) The court may require, in addition to any fine imposed upon conviction, that as a condition of probation and in addition to any other punishment or condition of probation, that a person convicted under this section remove, or pay the cost of removing, to the extent they are able, any materials which the convicted person dumped or caused to be dumped in violation of this section.

(i) This section does not prohibit the direct receipt of trucked grease by a publicly owned treatment works.

SEC. 191. Section 977 of the Penal Code is amended to read:

977. (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraphs (2) and (3). If the accused agrees, the initial court

appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) If the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present for arraignment and sentencing, and at any time during the proceedings when ordered by the court for the purpose of being informed of the conditions of a protective order issued pursuant to Section 136.2.

(3) If the accused is charged with a misdemeanor offense involving driving under the influence, in an appropriate case, the court may order a defendant to be present for arraignment, at the time of plea, or at sentencing. For purposes of this paragraph, a misdemeanor offense involving driving under the influence shall include a misdemeanor violation of any of the following:

(A) Paragraph (3) of subdivision (c) of Section 192.

(B) Section 23103 as specified in Section 23103.5 of the Vehicle Code.

(C) Section 23152 of the Vehicle Code.

(D) Section 23153 of the Vehicle Code.

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

"Waiver of Defendant's Personal Presence"

"The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit

pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place."

(c) The court may permit the initial court appearance and arraignment in superior court of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an initial hearing in superior court in a felony case, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant's personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the attorney shall be present with the defendant in any county exceeding 4,000,000 persons in population.

SEC. 192. Section 1037.1 of the Penal Code is amended to read:

1037.1. (a) Change of venue costs, as defined in Section 1037, that are court operations, as defined in Section 77003 of the Government Code and Rule 10.810 of the California Rules of Court, shall be considered court costs to be charged against and paid by the transferring court to the receiving court.

(b) The Judicial Council shall adopt financial policies and procedures to ensure the timely payment of court costs pursuant to this section. The policies and procedures shall include, but are not limited to, both of the following:

(1) The requirement that courts approve a budget and a timeline for reimbursement before the beginning of the trial.

(2) A process for the Administrative Office of the Courts to mediate any disputes regarding costs between transferring and receiving courts.

(c) (1) The presiding judge of the transferring court, or his or her designee, shall authorize the payment for the reimbursement of court costs out of the court operations fund of the transferring court.

(2) Payments for the reimbursement of court costs shall be deposited into the court operations fund of the receiving court.

SEC. 193. Section 1037.2 of the Penal Code is amended to read:

1037.2. (a) Change of venue costs, as defined in Section 1037, that are incurred by the receiving county and not defined as court operations under Section 77003 of the Government Code or Rule 10.810 of the California Rules of Court shall be considered to be county costs to be paid by the transferring county to the receiving county. County costs include, but are not limited to, alterations, including all construction-related costs, to a courthouse made that only resulted from the transfer of the trial, rental of furniture or equipment that only resulted from the transfer of the trial, inmate transportation provided by the county sheriff from the jail to the courthouse, security of the inmate or other participants in the trial, unique or extraordinary costs for the extended storage and safekeeping of evidence related to the trial, rental of jury parking lot, jury parking lot security and related costs, security expenses incurred by the county sheriff or a contracted agency that resulted only from the transfer of the trial, and information services for the court, jury, public, or media.

(b) Transferring counties shall approve a budget and a timeline for the payment of county costs before the beginning of trial.

(c) Claims for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the transferring county on a monthly basis. The treasurer shall pay the amount of county costs out of the general funds of the transferring county within 30 days of receiving the claim for costs from the receiving county.

(d) (1) The transferring court may, in its sound discretion, determine the reasonable and necessary costs under this section.

(2) The transferring court's approval of costs shall become effective 10 days after the court has given written notice of the costs to the auditor of the transferring county.

(3) During the 10-day period specified in paragraph (2), the auditor of the transferring county may contest the costs approved by the transferring court.

(4) If the auditor of the transferring county fails to contest the costs within the 10-day period specified in paragraph (2), the transferring

county shall be deemed to have waived the right to contest the imposition of these costs.

SEC. 193.5. 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 or 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. 194. Section 1458 of the Probate Code is amended to read:

1458. (a) On or before January 1, 2008, the Judicial Council shall report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases. The report shall include all of the following with respect to the courts chosen for evaluation:

(1) A summary of caseload statistics, including both temporary and permanent conservatorships, bonds, court investigations, accountings, and use of professional conservators.

(2) An analysis of compliance with statutory timeframes.

(3) A description of any operational differences between courts that affect the processing of conservatorship cases, including timeframes.

(b) The Judicial Council shall select three courts for the evaluation mandated by this section.

(c) The report shall include recommendations for statewide performance measures to be collected, best practices that serve to protect the rights of conservatees, and staffing needs to meet case processing measures.

(d) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 195. Section 2352.5 of the Probate Code is amended to read:

2352.5. (a) It shall be presumed that the personal residence of the conservatee at the time of commencement of the proceeding is the least

restrictive appropriate residence for the conservatee. In any hearing to determine if removal of the conservatee from his or her personal residence is appropriate, that presumption may be overcome by a preponderance of the evidence.

(b) Upon appointment, the conservator shall determine the appropriate level of care for the conservatee.

(1) That determination shall include an evaluation of the level of care existing at the time of commencement of the proceeding and the measures that would be necessary to keep the conservatee in his or her personal residence.

(2) If the conservatee is living at a location other than his or her personal residence at the commencement of the proceeding, that determination shall either include a plan to return the conservatee to his or her personal residence or an explanation of the limitations or restrictions on a return of the conservatee to his or her personal residence in the foreseeable future.

(c) The determination made by the conservator pursuant to subdivision (b) shall be in writing, signed under penalty of perjury, and submitted to the court within 60 days of appointment as conservator.

(d) The conservator shall evaluate the conservatee's placement and level of care if there is a material change in circumstances affecting the conservatee's needs for placement and care.

(e) (1) This section shall not apply to a conservatee with developmental disabilities for whom the Director of Developmental Services or a regional center for the developmentally disabled, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, acts as the conservator and who receives services from a regional center pursuant to the Lanterman Developmental Disabilities Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(2) Services, including residential placement, for a conservatee described in paragraph (1) who is a consumer, as defined in Section 4512 of the Welfare and Institutions Code, shall be identified, delivered, and evaluated consistent with the individual program plan process described in Article 2 (commencing with Section 4640) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code.

SEC. 196. Section 4690 of the Probate Code is amended to read:

4690. (a) If the principal becomes wholly or partially incapacitated, or if there is a question concerning the capacity of the principal, the agent may consult with a person previously designated by the principal for this purpose, and may also consult with and obtain information needed to carry out the agent's duties from the principal's spouse, physician, supervising health care provider, attorney, a member of the principal's

family, or other person, including a business entity or government agency, with respect to matters covered by the power of attorney for health care.

(b) A person described in subdivision (a) from whom information is requested shall disclose information that the agent requires to carry out his or her duties. Disclosure under this section is not a waiver of any privilege that may apply to the information disclosed.

SEC. 197. Section 21071 of the Public Contract Code is amended to read:

21071. (a) All contracts for any improvement or unit of work except as provided in this article estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner provided in this article. The board of supervisors of the district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in the district inviting sealed proposals for the construction of, the improvement or work before any contract shall be made for the improvement or work, and may let by contract separately any part of the work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection with the contract. The bonds shall contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of the Civil Code and be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. If all proposals are rejected or no proposals are received pursuant to the advertisement, the estimated cost of the work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids, have the work done by force account or negotiated contract.

(b) The district shall have the power to purchase in the open market without advertising for bids, materials, supplies, equipment, and other personal property for use in any work either under contract or by force account if the costs do not exceed ten thousand dollars ($10,000). It shall be the duty of the purchasing agent of Ventura County, as the ex officio purchasing agent of the Ventura County Watershed Protection District, unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment, and other personal property necessary to carry out the purposes of this article, and to engage independent contractors to perform sundry services for the district, if

the aggregate cost of such work, exclusive of materials to be furnished by the district, does not exceed ten thousand dollars ($10,000).

(c) The purchasing agent shall make all purchases and contracts upon proper requisition, signed by the engineer-manager of the district, or his or her authorized representative.

(d) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing if the cost of labor and materials for the work according to the engineer's estimate will exceed five thousand dollars ($5,000), and if the work is not of the type of work referred to in this section, the maintenance and alteration work shall be performed under a contract or contracts that shall be let to the lowest responsible bidder or bidders in the manner described in this section.

SEC. 198. Section 22154 of the Public Contract Code is amended to read:

22154. (a) All businesses shall certify in writing to the contracting officer, or his or her representative, the minimum, if not exact, percentage of postconsumer material in the products, materials, goods, or supplies being offered or sold to any local public entity.

(b) With respect to printer or duplication cartridges that comply with the requirements of subdivision (e) of Section 12156, the certification required by this section shall specify that the cartridges so comply.

(c) A local public entity may waive the certification requirement if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet Web site.

SEC. 199. Section 5096.805 of the Public Resources Code is amended to read:

5096.805. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) "Board" means the Reclamation Board or successor entity.

(b) "Committee" means the Disaster Preparedness and Flood Prevention Bond Finance Committee, created by Section 5096.957.

(c) "Delta" means the area of the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code.

(d) "Department" means the Department of Water Resources.

(e) "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the federally and state-authorized flood control facilities located in the Sacramento River and San Joaquin River drainage basin for which the board or the department has given the assurances of nonfederal cooperation to the United States required

for the project, and those facilities identified in Section 8361 of the Water Code.

(f) "Fund" means the Disaster Preparedness and Flood Prevention Bond Fund of 2006, created by Section 5096.806.

(g) "Project levees" means the levees that are part of the facilities of the State Plan of Flood Control.

(h) "Restoration" means the improvement of a physical structure or facility and, in the case of natural system and landscape features, includes, but is not limited to, a project for the control of erosion, the control and elimination of exotic species, including prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property. A restoration project shall include the planning, monitoring, and reporting necessary to ensure successful implementation of the project objectives.

(i) "State General Obligation Bond Law" means the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

(j) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the board or the department has provided the assurances of nonfederal cooperation to the United States, which shall be updated by the department and compiled into a single document entitled "The State Plan of Flood Control."

(k) "Urban area" means any contiguous area in which more than 10,000 residents are protected by project levees.

SEC. 200. Section 5096.821 of the Public Resources Code is amended to read:

5096.821. Three billion dollars ($3,000,000,000) shall be available, upon appropriation to the department, for the following purposes:

(a) The evaluation, repair, rehabilitation, reconstruction, or replacement of levees, weirs, bypasses, and facilities of the State Plan of Flood Control by all of the following actions:

(1) Repairing erosion sites and removing sediment from channels or bypasses.

(2) Evaluating and repairing levees and any other facilities of the State Plan of Flood Control.

(3) Implementing mitigation measures for a project undertaken pursuant to this subdivision. The department may fund participation in a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code to facilitate projects authorized by this subdivision.

(b) Improving or adding facilities to the State Plan of Flood Control to increase levels of flood prevention for urban areas, including all related costs for mitigation and infrastructure relocation. Funds made available by this subdivision may be expended for state financial participation in federal and state authorized flood control projects, feasibility studies and design of federal flood damage reduction and related projects, and reservoir reoperation and groundwater flood storage projects. Not more than two hundred million dollars ($200,000,000) may be expended on a single project, excluding authorized flood control improvements to Folsom Dam.

(c) (1) To reduce the risk of levee failure in the delta.

(2) The funds made available for the purpose specified in paragraph (1) shall be expended for both of the following purposes:

(A) Local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as that part may be amended.

(B) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

SEC. 201. 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 descendants 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 descendants 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 descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment.

(1) The descendants' 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 descendants 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 descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants 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 descendants 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)).

SEC. 202. Section 5645 of the Public Resources Code is amended to read:

5645. The department may award a grant pursuant to this chapter only for a project that meets all of the following criteria:

(a) The proposed project is within the jurisdiction of an eligible applicant, as specified in Section 5644.

(b) The project will result in the creation of a new urban park, new multipurpose facility, or new recreational opportunity.

SEC. 203. Section 6314 of the Public Resources Code is amended to read:

6314. (a) A person who removes, without authorization from the commission, or a person who destroys or damages an archaeological site or a historic resource, that is located on or in the submerged lands of, and that is the property of, the state, is guilty of a misdemeanor, which shall be punishable by imprisonment in a county jail not to exceed six months or a fine not to exceed five thousand dollars ($5,000), or by both.

(b) The commission, or, at its request, the Attorney General or a district attorney in whose jurisdiction the violation occurred, may seek civil damages for the damage, loss, or destruction of an abandoned shipwreck, its gear or cargo, or an archaeological site or historic resource located on or in submerged lands of the state. A vessel used to damage, destroy, or cause the loss of, any shipwreck or archaeological site or historic resource is subject to a proceeding in rem by the state for the costs and damages resulting from that damage, destruction, or loss. Enforcement may include, where appropriate, a restraining order or injunctive relief to restrain and enjoin violations or threatened violations of Section 6309, Section 6313, or this section and for the return of items taken in violation of these sections.

(c) An artifact, object, or material that has been removed from a state submerged archaeological site or submerged historic resource, as specified in subdivision (a), and that is found in any watercraft occupied by persons who do not hold a permit as required by Section 6309 or 6313 or other reasonable evidence of legal possession is prima facie evidence of a violation of that section and the artifact, object, or material may be confiscated by a state, federal, or local law enforcement officer. An artifact, an object, or material confiscated pursuant to this section shall be returned to the person claiming ownership, upon proof of ownership or legal right to possession, within 30 days of its confiscation, unless a prosecuting attorney determines that it is required as evidence in the prosecution of a criminal violation.

(d) In a case in which a district attorney, at the request of the commission, or with its concurrence, enforces subdivision (a), the commission shall, notwithstanding Section 1463 of the Penal Code, be entitled to an equal division of the fine imposed.

(e) All state and local law enforcement agencies and officers are directed to assist in enforcing this section, and are requested to work with and seek the cooperation of federal law enforcement agencies, including deputizing federal officers when appropriate.

SEC. 203.5. The heading of Chapter 12 (commencing with Section 5860) of Division 5 of the Public Resources Code, as added by Section 1 of Chapter 827 of the Statutes of 2006, is amended and renumbered to read:

Chapter 13. California Natural Landmarks Program

SEC. 204. 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.

(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:

(i) Multi-family dwellings.

(ii) Schools.

(iii) Commercial, state, and local government buildings.

(iv) Bars, restaurants, hotels, and lodging establishments, and entertainment venues.

(v) 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) (A) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education-promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county.

The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(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. 205. Section 16053 of the Public Resources Code is amended to read:

16053. (a) A grease waste hauler who violates this division shall be subject to a civil penalty, for the first violation, in an amount that does not exceed five thousand dollars ($5,000).

(b) A grease waste hauler who violates this division, for a second or subsequent violation, shall be subject to a civil penalty in an amount that does not exceed ten thousand dollars ($10,000).

(c) A grease waste hauler who violates this division may also be subject to any further equitable remedy, as determined by the court.

(d) The civil penalties collected pursuant to this division shall be apportioned as follows:

(1) Fifty percent shall be deposited in the Environmental Enforcement and Training Account established pursuant to Section 14303 of the Penal Code, and used for purposes of Title 13 (commencing with Section 14300) of Part 4 of the Penal Code.

(2) Fifty percent to the local health officer or other local public officer or agency that investigated the matter that led to bringing the action.

SEC. 206. Section 21151.8 of the Public Resources Code is amended to read:

21151.8. (a) An environmental impact report or negative declaration may not be approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:

(1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action

pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.

(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

(2) The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste. The notification by the school district, as the lead agency, shall include a list of the locations for which information is sought.

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii) or (iii) of subparagraph (B) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(4) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with this section as to the area of responsibility of any agency that does not respond within 30 days.

(b) If a school district, as a lead agency, has carried out the consultation required by paragraph (2) of subdivision (a), the environmental impact report or the negative declaration shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in paragraph (2) of subdivision (a).

(c) As used in this section and Section 21151.4, the following definitions shall apply:

(1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(2) "Extremely hazardous substances" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(5) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant

by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(6) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(8) "Facilities" means any source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.

(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

SEC. 207. Section 21167.6 of the Public Resources Code is amended to read:

21167.6. Notwithstanding any other provision of law, in all actions or proceedings brought pursuant to Section 21167, except those involving the Public Utilities Commission, all of the following shall apply:

(a) At the time that the action or proceeding is filed, the plaintiff or petitioner shall file a request that the respondent public agency prepare the record of proceedings relating to the subject of the action or proceeding. The request, together with the complaint or petition, shall be served personally upon the public agency not later than 10 business days from the date that the action or proceeding was filed.

(b) (1) The public agency shall prepare and certify the record of proceedings not later than 60 days from the date that the request specified in subdivision (a) was served upon the public agency. Upon certification, the public agency shall lodge a copy of the record of proceedings with the court and shall serve on the parties notice that the record of proceedings has been certified and lodged with the court. The parties shall pay any reasonable costs or fees imposed for the preparation of the record of proceedings in conformance with any law or rule of court.

(2) The plaintiff or petitioner may elect to prepare the record of proceedings or the parties may agree to an alternative method of

preparation of the record of proceedings, subject to certification of its accuracy by the public agency, within the time limit specified in this subdivision.

(c) The time limit established by subdivision (b) may be extended only upon the stipulation of all parties who have been properly served in the action or proceeding or upon order of the court. Extensions shall be liberally granted by the court when the size of the record of proceedings renders infeasible compliance with that time limit. There is no limit on the number of extensions that may be granted by the court, but no single extension shall exceed 60 days unless the court determines that a longer extension is in the public interest.

(d) If the public agency fails to prepare and certify the record within the time limit established in paragraph (1) of subdivision (b), or any continuances of that time limit, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions.

(e) The record of proceedings shall include, but is not limited to, all of the following items:

(1) All project application materials.

(2) All staff reports and related documents prepared by the respondent public agency with respect to its compliance with the substantive and procedural requirements of this division and with respect to the action on the project.

(3) All staff reports and related documents prepared by the respondent public agency and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the respondent agency pursuant to this division.

(4) Any transcript or minutes of the proceedings at which the decisionmaking body of the respondent public agency heard testimony on, or considered any environmental document on, the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the project.

(5) All notices issued by the respondent public agency to comply with this division or with any other law governing the processing and approval of the project.

(6) All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation.

(7) All written evidence or correspondence submitted to, or transferred from, the respondent public agency with respect to compliance with this division or with respect to the project.

(8) Any proposed decisions or findings submitted to the decisionmaking body of the respondent public agency by its staff, or the project proponent, project opponents, or other persons.

(9) The documentation of the final public agency decision, including the final environmental impact report, mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to this division.

(10) Any other written materials relevant to the respondent public agency's compliance with this division or to its decision on the merits of the project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the respondent public agency's files on the project, and all internal agency communications, including staff notes and memoranda related to the project or to compliance with this division.

(11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of litigation.

(f) In preparing the record of proceedings, the party preparing the record shall strive to do so at reasonable cost in light of the scope of the record.

(g) The clerk of the superior court shall prepare and certify the clerk's transcript on appeal not later than 60 days from the date that the notice designating the papers or records to be included in the clerk's transcript was filed with the superior court, if the party or parties pay any costs or fees for the preparation of the clerk's transcript imposed in conformance with any law or rules of court. Nothing in this subdivision precludes an election to proceed by appendix, as provided in Rule 8.124 of the California Rules of Court.

(h) Extensions of the period for the filing of any brief on appeal may be allowed only by stipulation of the parties or by order of the court for good cause shown. Extensions for the filing of a brief on appeal shall be limited to one 30-day extension for the preparation of an opening brief, and one 30-day extension for the preparation of a responding brief, except that the court may grant a longer extension or additional extensions if it determines that there is a substantial likelihood of settlement that would avoid the necessity of completing the appeal.

(i) At the completion of the filing of briefs on appeal, the appellant shall notify the court of the completion of the filing of briefs, whereupon

the clerk of the reviewing court shall set the appeal for hearing on the first available calendar date.

SEC. 208. Section 25205 of the Public Resources Code is amended to read:

25205. (a) No person shall be a member of the commission who, during the two years prior to appointment on the commission, received any substantial portion of his or her income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility. A member of the commission shall not be employed by any electric utility, applicant, or, within two years after he or she ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility.

(b) Except as provided in Section 25202, the members of the commission shall not hold any other elected or appointed public office or position.

(c) The members of the commission and all employees of the commission shall comply with all applicable provisions of Section 19251 of the Government Code.

(d) A person who is a member or employee of the commission shall not participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his or her knowledge, he or she, his or her spouse, minor child, or partner, or any organization, except a governmental agency or educational or research institution qualifying as a nonprofit organization under state or federal income tax law, in which he or she is serving, or has served as officer, director, trustee, partner, or employee while serving as a member or employee of the commission or within two years prior to his or her appointment as a member of the commission, has a direct or indirect financial interest.

(e) A person who is a partner, employer, or employee of a member or employee of the commission shall not act as an attorney, agent, or employee for any person other than the state in connection with any judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which the commission is a party or has a direct and substantial interest.

(f) The provisions of this section shall not apply if the Attorney General finds that the interest of the member or employee of the commission is not so substantial as to be deemed likely to affect the

integrity of the services which the state may expect from the member or employee.

(g) Any person who violates any provision of this section is guilty of a felony and shall be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison, or both.

(h) The amendment of subdivision (d) of this section enacted by the 1975–76 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

SEC. 209. Section 25303 of the Public Resources Code is amended to read:

25303. (a) The commission shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (a) of Section 25302, including, but not limited to, all of the following:

(1) Assessment of trends in electricity and natural gas supply and demand, and the outlook for wholesale and retail prices for commodity electricity and natural gas under current market structures and expected market conditions.

(2) Forecasts of statewide and regional electricity and natural gas demand including annual, seasonal, and peak demand, and the factors leading to projected demand growth, including, but not limited to, projected population growth, urban development, industrial expansion and energy intensity of industries, energy demand for different building types, energy efficiency, and other factors influencing demand for electricity. With respect to long-range forecasts of the demand for natural gas, the report shall include an evaluation of average conditions, as well as best and worst case scenarios, and an evaluation of the impact of the increasing use of renewable resources on natural gas demand.

(3) Evaluation of the adequacy of electricity and natural gas supplies to meet forecasted demand growth. Assessment of the availability, reliability, and efficiency of the electricity and natural gas infrastructure and systems, including, but not limited to, natural gas production capability both in and out of state, natural gas interstate and intrastate pipeline capacity, storage and use, and western regional and California electricity and transmission system capacity and use.

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

(5) Evaluation of the potential impacts of electricity and natural gas load management efforts, including end-user response to market price signals, as a means to ensure reliable operation of electricity and natural gas systems.

(6) Evaluation of whether electricity and natural gas markets are adequately meeting public interest objectives including the provision of all of the following: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally sensitive electricity and natural gas supplies. This evaluation may consider the extent to which California is an element within western energy markets, the existence of appropriate incentives for market participants to provide supplies and for consumers to respond to energy prices, appropriate identification of responsibilities of various market participants, and an assessment of long-term versus short-term market performance. To the extent this evaluation identifies market shortcomings, the commission shall propose market structure changes to improve performance.

(7) Identification of impending or potential problems or uncertainties in the electricity and natural gas markets, potential options and solutions, and recommendations.

(8) (A) Compilation and assessment of existing scientific studies that have been performed by persons or entities with expertise and qualifications in the subject of the studies to determine the potential vulnerability to a major disruption due to aging or a major seismic event of large baseload generation facilities, of 1,700 megawatts or greater.

(B) The assessment specified in subparagraph (A) shall include an analysis of the impact of a major disruption on system reliability, public safety, and the economy.

(C) The commission may work with other public entities and public agencies, including, but not limited to, the California Independent System Operator, the Public Utilities Commission, the Department of Conservation, and the Seismic Safety Commission as necessary, to gather and analyze the information required by this paragraph.

(D) Upon completion and publication of the initial review of the information required pursuant to this paragraph, the commission shall perform subsequent updates as new data or new understanding of potential seismic hazards emerge.

(b) Commencing November 1, 2003, and every two years thereafter, to be included in the integrated energy policy report prepared pursuant to Section 25302, the commission shall assess the current status of the following:

(1) The environmental performance of the electric generation facilities of the state, to include all of the following:

(A) Generation facility efficiency.

(B) Air emission control technologies in use in operating plants.

(C) The extent to which recent resource additions have, and expected resource additions are likely to, displace or reduce the operation of

existing facilities, including the environmental consequences of these changes.

(2) The geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to, the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displaced or reduced operation of existing facilities.

(c) In the absence of a long-term nuclear waste storage facility, the commission shall assess the potential state and local costs and impacts associated with accumulating waste at California's nuclear powerplants. The commission shall further assess other key policy and planning issues that will affect the future role of nuclear powerplants in the state. The commission's assessment shall be adopted on or before November 1, 2008, and included in the 2008 energy policy review adopted pursuant to subdivision (d) of Section 25302.

SEC. 210. Section 25310 of the Public Resources Code is amended to read:

25310. On or before November 1, 2007, and by November 1 of every third year thereafter, the commission in consultation with the Public Utilities Commission and local publicly owned electric utilities, in a public process that allows input from other stakeholders, shall develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction for the next 10-year period. The commission shall base its estimate at least in part on information developed pursuant to Sections 454.55, 454.56, and 9615 of the Public Utilities Code. The commission shall, for each electrical corporation and each gas corporation, include in the integrated energy policy report, a comparison of the public utility's annual targets established pursuant to Sections 454.55 and 454.56, and the public utility's actual energy efficiency savings and demand reductions.

SEC. 211. Section 25742 of the Public Resources Code is amended to read:

25742. (a) Ten percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued

operation of those facilities will provide, during the 2007–11 investment cycle. Eligibility for incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (4), (5), and (7) of subdivision (e) of Section 25740.5.

(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with this chapter.

(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:

(1) Is sold at monthly average rates equal to or greater than the applicable target price, as determined by the commission.

(2) Is used onsite.

(d) Existing facilities generating electricity from biomass energy shall be eligible for funding and otherwise considered an in-state renewable electricity generation facility only if they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the fuels specified in subdivision (f) of Section 25743. The commission shall report the types and quantities of biomass fuels used by each facility to the Legislature in the reports prepared pursuant to Section 25748.

(e) Each existing facility seeking an award pursuant to this section shall be evaluated by the commission to determine the amount of the funds being sought, the cumulative amount of funds the facility has received previously from the commission and other state sources, the value of any past and current federal or state tax credits, the facility's contract price for energy and capacity, the prices received by similar facilities, the market value of the facility, and the likelihood that the award will make the facility competitive and self-sustaining within the 2007–11 investment cycle. The commission shall use this evaluation to determine the value of an award to the public relative to other renewable energy investment alternatives. The commission shall compile its findings and report them to the Legislature in the reports prepared pursuant to Section 25748.

SEC. 212. Section 25743 of the Public Resources Code is amended to read:

25743. (a) Fifty-one and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide.

(b) Any funds used for new in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) In order to cover the above-market costs of eligible renewable energy resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(A) The commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code. The commission may waive application of the caps to accommodate a facility if it is demonstrated to the satisfaction of the commission that operation of the facility would provide substantial economic and environmental benefits to end-use customers subject to the renewable energy public goods charge.

(B) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this section.

(C) Supplemental energy payments awarded to facilities selected by a retail seller or procurement entity pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for no longer than 10 years, but shall, subject to the payment caps in subparagraph (A), be equal to the cumulative above-market costs relative to the applicable market price referent at the time of initial contracting, over the duration of the contract with the retail seller or procurement entity.

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(F) A project selected by an electrical corporation may receive supplemental energy payments only if it results from a competitive solicitation that is found by the Public Utilities Commission to comply with the California Renewables Portfolio Standard Program under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, and the project has entered into an electricity purchase agreement resulting from that solicitation, that

is approved by the Public Utilities Commission. A project selected for an electricity purchase agreement by another retail seller or procurement entity may receive supplemental energy payments only if the Public Utilities Commission determines that the selection of the project is consistent with the results of a least-cost and best-fit process, and the supplemental energy payments are reasonable in comparison to those paid under similar contracts with other retail sellers. The commission may not award supplemental energy payments to service load that is not subject to the renewable energy public goods charge.

(G) (i) Supplemental energy payments shall not be awarded for any purchases of renewable energy credits.

(ii) Supplemental energy payments shall not be awarded for electricity purchase agreements that have a duration of less than 10 years. The ineligibility of agreements of less than 10 years' duration for supplemental energy payments does not constitute an insufficiency in supplemental energy payments pursuant to paragraph (4) or (5) of subdivision (b) of Section 399.15.

(2) (A) A facility that is located outside of California shall not be eligible for funding under this section unless it satisfies the requirements of this subdivision and the criteria of subparagraph (B) of paragraph (2) of subdivision (b) of Section 25741.

(B) No more than 10 percent of the funds available under this section shall be awarded to facilities located outside of California.

(3) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6 of the Public Utilities Code.

(B) Is used onsite or is sold to customers in a manner that excludes competition transition charge payments, or is otherwise excluded from competition transition charge payments.

(C) Is a hydroelectric generation project that will require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or any other provision authorizing an appropriation of water.

(D) Is a solid waste conversion facility, unless the facility meets the criteria established in paragraph (3) of subdivision (b) of Section 25741 and the facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section

40000), has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

(4) Eligibility to compete for funds or to receive funds shall be contingent upon having to sell the electricity generated by the renewable electricity generation facility to customers subject to the renewable energy public goods charge.

(5) The commission may require applicants competing for funding to post a forfeitable bid bond or other financial guaranty as an assurance of the applicant's intent to move forward expeditiously with the project proposed. The amount of any bid bond or financial guaranty may not exceed 10 percent of the total amount of the funding requested by the applicant.

(6) In awarding funding, the commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(c) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.

(d) Facilities engaging in the direct combustion of municipal solid waste or tires are not eligible for funding under this subdivision.

(e) Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.

(f) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation facility to the extent that they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:

(1) Agricultural crops and agricultural wastes and residues.

(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

SEC. 213. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission consisting of 23 members as follows:

(a) One member of the board of supervisors of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.

(b) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:

(1) One from the north delta, consisting of the Counties of Yolo and Sacramento.

(2) One from the south delta, consisting of the County of San Joaquin.

(3) One from the west delta, consisting of the Counties of Contra Costa and Solano.

(c) (1) One member each from the board of directors of five different reclamation districts that are located within the primary zone who are residents of the delta, and who are elected by the trustees of reclamations districts within the following areas:

(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.

(B) One member from the west delta consisting of the area of Contra Costa County within the delta.

(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.

(d) The Director of Parks and Recreation, or the director's sole designee.

(e) The Director of Fish and Game, or the director's sole designee.

(f) The Secretary of Food and Agriculture, or the secretary's sole designee.

(g) The executive officer of the State Lands Commission, or the executive officer's sole designee.

(h) The Director of Boating and Waterways, or the director's sole designee.

(i) The Director of Water Resources, or the director's sole designee.

(j) The public member of the California Bay-Delta Authority who represents the delta region.

(k) The Governor shall appoint three members from the general public who are delta residents or delta landowners, as follows:

(1) One member shall represent the interests of production agriculture with a background in promoting the agricultural viability of delta farming.

(2) One member shall represent the interests of conservation of wildlife and habitat resources of the delta region and ecosystem.

(3) One member shall represent the interests of outdoor recreational opportunities, including, but not limited to, hunting and fishing.

SEC. 214. Section 30340.5 of the Public Resources Code is amended to read:

30340.5. (a) It is the policy of the state that no less than 50 percent of funds received by the state from the federal government pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.) shall be used for the preparation, review, approval, certification, and implementation of local coastal programs.

(b) A local government subject to this division may claim reimbursement of costs incurred as a direct result of the operation of or any requirement promulgated pursuant to this division. Notwithstanding any other provision of law, a claim for reimbursement of mandated costs directly attributable to the operation of this division shall only be submitted, reviewed, and approved in the manner set forth in this section.

(c) A claim pursuant to this section shall be submitted to the executive director of the commission no later than September 30. The executive director shall review the claim in accordance with this section and shall submit the claim to the Controller within 60 days after receipt of a claim but in no event later than November 30.

(d) A claim submitted pursuant to this section shall be filed on forms approved and prepared by the commission in consultation with the Controller. The forms shall specify the information needed to enable the executive director of the commission and the Controller to make the determinations required by subdivision (e). The forms shall clearly set forth information requirements for the evaluation of the following categories of costs:

(1) Costs for work relating to the preparation, review, and approval of a local coastal program or a portion of a program.

(2) Costs for work that is not covered by paragraph (1).

The claim forms required by this section shall provide for claims of actual costs incurred during the fiscal year preceding submittal and for the costs the claimant local government estimates will be incurred during the then-current fiscal year.

(e) The executive director shall review and evaluate each claim submitted pursuant to this section and shall determine whether:

(1) The costs claimed are not paid for or reimbursed from any other source of state or federal funding.

(2) The costs are for work that is the direct result of and is mandated by the operation of this division or by the commission or whether the work is optional.

(3) With respect to costs specified in paragraph (1) of subdivision (d), the work done or to be done is reasonable and necessary for the preparation and approval of a local coastal program pursuant to a local coastal program work program approved by the commission, or for work that is not part of an approved work program if the work can be shown to be necessary for the completion of a certifiable local coastal program or if new information or other circumstances cause the commission to require that the work be carried out.

(f) The executive director of the commission shall submit to the Controller, on behalf of each claimant local government, all claims submitted pursuant to this section together with his or her recommendation whether the Controller should allow or deny, in whole or in part, the claim. The executive director's recommendation shall be based on his or her determinations made pursuant to subdivision (e). If the executive director fails to make a recommendation by the time a claim is required to be submitted to the Controller as provided in

subdivision (c), the executive director is deemed to have recommended approval of the claim.

(g) Section 17561 of the Government Code shall apply to a claim filed pursuant to this section. However, where a conflict between Section 17561 of the Government Code and this section occurs, the conflict shall be resolved in a manner that best carries out the purposes of this section. The Controller shall apply the criteria of subdivision (e) in determining whether to allow or deny, in whole or in part, a claim and shall consider the recommendations of the executive director of the commission.

SEC. 215. Section 42310.3 of the Public Resources Code is amended to read:

42310.3. (a) Notwithstanding Section 42310, a manufacturer is in compliance with this chapter if the manufacturer demonstrates through its own actions, or the actions of another company under the same corporate ownership, that one of the following actions were taken during the same period for which the manufacturer is subject to this chapter, with regard to a rigid plastic packaging container that stores the manufacturer's product that is sold or intended for sale in this state:

(1) The manufacturer, or another company under the same corporate ownership, consumed postconsumer material generated in the state in the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section, and that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(2) The manufacturer, or any company under the same corporate ownership, arranged by contractual agreement for the purchase and consumption of postconsumer material generated in the state and exported to another state for the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(b) The board shall determine the manner of demonstrating compliance with this section.

SEC. 216. Section 48023 of the Public Resources Code is amended to read:

48023. (a) If the board expends any funds pursuant to this article, the board shall, to the extent feasible, seek repayment from responsible parties in an amount equal to the amount expended, a reasonable amount

for the board's cost of contract administration, and an amount equal to the interest that would have been earned on the expended funds.

(b) In implementing this article, the board is vested, in addition to its other powers, with all the powers of an enforcement agency under this division.

(c) The amount of any cost incurred by the board pursuant to this article shall be recoverable from responsible parties in a civil action brought by the board or, upon the request of the board, by the Attorney General pursuant to Section 40432.

SEC. 217. Section 303 of the Public Utilities Code is amended to read:

303. (a) A public utilities commissioner may not hold an official relation to, nor have a financial interest in, a person or corporation subject to regulation by the commission. If any commissioner acquires a financial interest in a corporation or person subject to regulation by the commission other than voluntarily, his or her office shall become vacant unless within a reasonable time he or she divests himself or herself of the interest.

(b) The commission shall adopt an updated Conflict of Interest Code and Statement of Incompatible Activities, by February 28, 1998, in a manner consistent with applicable law.

SEC. 218. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(b) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water from a watercourse.

(B) Notwithstanding subparagraph (A), an existing conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource. A new conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource so long as it does

not require a new or increased appropriation or diversion of water from a watercourse.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(c) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(d) "Local publicly owned electric utility" has the same meaning as provided in subdivision (d) of Section 9604.

(e) "Procure" means that a retail seller receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(f) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article.

(g) (1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(h) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

SEC. 219. Section 399.20 of the Public Utilities Code is amended to read:

399.20. (a) It is the policy of this state and the intent of the Legislature to encourage energy production from renewable resources at public water and wastewater facilities in an amount commensurate with water-related electricity demand.

(b) As used in this section, "electric generation facility" means an electric generation facility, owned and operated by a public water or wastewater agency that is a retail customer of an electrical corporation, and that meets all of the following criteria:

(1) Has an effective capacity of not more than one megawatt and is located on or adjacent to a water or wastewater facility owned and operated by the public water or wastewater agency.

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is sized to offset part or all of the electricity demand of the public water or wastewater agency.

(4) Is strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

(5) Is an eligible renewable energy resource, as defined in Section 399.12.

(c) Every electrical corporation shall file with the commission a standard tariff for renewable energy output produced at an electric generation facility.

(d) The tariff shall provide for payment for every kilowatthour of renewable energy output produced at an electric generation facility at

the market price as determined by the commission pursuant to Section 399.15 for a period of 10, 15, or 20 years, as authorized by the commission.

(e) Every electrical corporation shall make this tariff available to public water or wastewater agencies that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come, first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 250 megawatts. An electrical corporation may make the terms of the tariff available to public water or wastewater agencies in the form of a standard contract subject to commission approval. Each electrical corporation shall only be required to offer service or contracts under this section until that electrical corporation meets its proportionate share of the 250 megawatts based on the ratio of its peak demand to the total statewide peak demand of all electrical corporations.

(f) Every kilowatthour of renewable energy output produced by the electric generation facility shall count toward the electrical corporation's renewable portfolio standard annual procurement targets for purposes of paragraph (1) of subdivision (b) of Section 399.15.

(g) The physical generating capacity of an electric generation facility shall count toward the electrical corporation's resource adequacy requirement for purposes of Section 380.

(h) Upon approval by the commission, any tariff or contract authorized by this section may be made available to an electric generation facility that has an effective capacity of not more than 1.5 megawatts if that electrical generation facility otherwise complies with this section.

SEC. 219.3. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator, and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds

pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315. The railroad fees shall be set annually at a level which generates not less than the amount sufficient to fund activities pursuant to Sections 765.5, 7711, and 7712.

(d) On January 1, 1992, the commission shall submit to the Legislature a detailed budget implementing this section for the 1992–93 fiscal year. The commission shall also submit to the Legislature by January 1, 1993, and on each January 1 thereafter, a detailed budget for expenditure of railroad corporation fees for the ensuing budget year. The budget for expenditure of railroad corporation fees, for each of the 1996–97 and 1997–98 fiscal years, shall not exceed the amount of three million dollars ($3,000,000). Expenditures of this budget shall be limited to the following items:

(1) Expenditures for employees occupying, and actually performing service in, railroad-safety personnel positions that are directly involved in inspecting railroads and enforcing rail safety regulations. The commission shall expend the funds budgeted pursuant to this subdivision for the salaries, per diem, and travel expenses of employees specified in this paragraph, unless, by statute, the commission is specifically prohibited from expending all or part of those funds.

(2) Expenditures for employees occupying, and actually performing service in, clerical and support staff positions that are directly associated with railroad-safety inspections.

(3) Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.

(4) Expenditures for an audit by the Bureau of State Audits pursuant to subdivision (f), not to exceed seventy-five thousand dollars ($75,000).

(5) Expenditures for the pro rata share of the commission's overhead costs while state personnel are actually occupying the positions, and are performing the duties specified in paragraphs (1) to (4), inclusive.

(e) The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28.00 of the annual Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that is larger than one hundred thousand dollars ($100,000), or 10 percent of the amount budgeted, whichever is less.

(f) Except as otherwise provided in this subdivision, commencing with the 1993–94 fiscal year, and in each subsequent fiscal year until the 1999–2000 fiscal year, the commission shall conduct an audit of the

expenditure of the funds received pursuant to this section, except that for the 1996–97 fiscal year and fiscal years thereafter the audit shall be conducted by the Bureau of State Audits. The results of this audit shall be reported, in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993–94 fiscal year, and on or before January 15 of each year thereafter, with respect to the audit for the fiscal year ending on the previous June 30, to the appropriate policy and budget committees of the respective houses of the Legislature. The commission shall reimburse the Bureau of State Audits for the costs of the audits beginning with the 1996–97 fiscal year.

(g) On or before January 1, 1994, the commission shall hire a minimum of four additional operating practices inspectors, exclusive of supervisory personnel, who are, or shall become by July 1, 1994, federally certified, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.

(h) The commission, in performing its duties, shall limit the expenditure of funds for rail safety division purposes to those railroad corporation fees collected pursuant to subdivision (d). In no event, shall the commission fund railroad safety activities utilizing funds from other commission accounts unrelated to railroad safety.

SEC. 219.5. Section 455.1 of the Public Utilities Code is amended to read:

455.1. Whenever a water corporation files with the commission, pursuant to an advice letter submitted in accordance with commission procedures for this means of submission, a schedule stating rates, classifications, contracts, practices, or rules for the service of recycled water, the policies and standards for which are provided for in Article 7 (commencing with Section 13550) of Chapter 7 of Division 7 of the Water Code, the commission shall observe the following procedures:

(a) Unless the commission determines, pursuant to subdivision (b), that the schedule filed by a water corporation for the service of recycled water is not justified or, pursuant to subdivision (d), any other party protests in writing the filing of the schedule, the schedule shall become effective upon the expiration of 40 days from the time of filing thereof.

(b) Notwithstanding the filing of notice of changes or amendments as provided in subdivision (c) or a protest as provided in subdivision (d), the schedule as filed shall become effective on an interim basis upon the expiration of 30 days from the time of filing thereof, subject to refund of any amount of the rate subsequently found by the commission to be in excess of a just and reasonable rate.

(c) If, upon its own initiative, the commission, acting through the staff organization with responsibility for reviewing advice letter filings, determines that the schedule filed by a water corporation for the service

of recycled water is not justified, it shall notify the water corporation of the determination in writing within 40 days from the time of filing of the schedule and shall state in the notice all changes or amendments to the schedule that are required to make it just and reasonable. Upon the refiling by the water corporation within 10 days of the receipt of the notice of a revised schedule incorporating all changes and amendments specified by the commission, the revised schedule shall become effective on an interim basis subject to refund upon the expiration of five days from the time of the refiling thereof, and shall become final upon formal commission action approving the schedule, as revised.

(d) If any other party, including the commission organization or division created pursuant to Section 309.5, protests in writing the schedule filed by a water corporation for the service of recycled water, the commission shall set the matter for a hearing on the protest to be held within a reasonable time from the time that the party files its written protest with the commission.

(e) Subdivision (d) of Section 311 shall govern the timing of actions by the commission after the close of the record in any proceeding pursuant to subdivision (d) of this section.

SEC. 220. Section 7662 of the Public Utilities Code is amended 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 persons 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. 221. Section 7665.2 of the Public Utilities Code is amended to read:

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.

SEC. 222. Section 8340 of the Public Utilities Code is amended to read:

8340. For purposes of this chapter, the following terms have the following meanings:

(a) "Baseload generation" means electricity generation from a powerplant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent.

(b) "Combined-cycle natural gas" with respect to a powerplant means the powerplant employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(c) "Community choice aggregator" means a "community choice aggregator" as defined in Section 331.1.

(d) "Electrical corporation" means an "electrical corporation" as defined in Section 218.

(e) "Electric service provider" means an "electric service provider" as defined in Section 218.3, but does not include corporations or persons employing cogeneration technology or producing electricity from other than a conventional power source consistent with subdivision (b) of Section 218.

(f) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(g) "Greenhouse gases" means those gases listed in subdivision (h) of Section 42801.1 of the Health and Safety Code.

(h) "Load-serving entity" means every electrical corporation, electric service provider, or community choice aggregator serving end-use customers in the state.

(i) "Local publicly owned electric utility" means a "local publicly owned electric utility" as defined in Section 9604.

(j) "Long-term financial commitment" means either a new ownership investment in baseload generation or a new or renewed contract with a term of five or more years, which includes procurement of baseload generation.

(k) "Output-based methodology" means a greenhouse gases emission performance standard that is expressed in pounds of greenhouse gases emitted per megawatthour and factoring in the useful thermal energy employed for purposes other than the generation of electricity.

(*l*) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatthours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatthours.

(m) "Powerplant" means a facility for the generation of electricity, and includes one or more generating units at the same location.

(n) "Zero- or low-carbon generating resource" means an electrical generating resource that will generate electricity while producing emissions of greenhouse gases at a rate substantially below the greenhouse gases emission performance standard, as determined by the commission.

SEC. 223. Section 8341 of the Public Utilities Code is amended to read:

8341. (a) No load-serving entity or local publicly owned electric utility may enter into a long-term financial commitment unless any baseload generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the commission, pursuant to subdivision (d), for a load-serving entity, or by the Energy Commission, pursuant to subdivision (e), for a local publicly owned electric utility.

(b) (1) The commission shall not approve a long-term financial commitment by an electrical corporation unless any baseload generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the commission pursuant to subdivision (d).

(2) The commission may, in order to enforce this section, review any long-term financial commitment proposed to be entered into by an electric service provider or a community choice aggregator.

(3) The commission shall adopt rules to enforce the requirements of this section, for load-serving entities. The commission shall adopt

procedures, for all load-serving entities, to verify the emissions of greenhouse gases from any baseload generation supplied under a contract subject to the greenhouse gases emission performance standard to ensure compliance with the standard.

(4) In determining whether a long-term financial commitment is for baseload generation, the commission shall consider the design of the powerplant and the intended use of the powerplant, as determined by the commission based upon the electricity purchase contract, any certification received from the Energy Commission, any other permit or certificate necessary for the operation of the powerplant, including a certificate of public convenience and necessity, any procurement approval decision for the load-serving entity, and any other matter the commission determines is relevant under the circumstances.

(5) Costs incurred by an electrical corporation to comply with this section, including those costs incurred for electricity purchase agreements that are approved by the commission that comply with the greenhouse gases emission performance standard, are to be treated as procurement costs incurred pursuant to an approved procurement plan and the commission shall ensure timely cost recovery of those costs pursuant to paragraph (3) of subdivision (d) of Section 454.5.

(6) A long-term financial commitment entered into through a contract approved by the commission, for electricity generated by a zero- or low-carbon generating resource that is contracted for, on behalf of consumers of this state on a cost-of-service basis, shall be recoverable in rates, in a manner determined by the commission consistent with Section 380. The commission may, after a hearing, approve an increase from one-half to 1 percent in the return on investment by the third party entering into the contract with an electrical corporation with respect to investment in zero- or low-carbon generation resources authorized pursuant to this subdivision.

(c) (1) The Energy Commission shall adopt regulations for the enforcement of this chapter with respect to a local publicly owned electric utility.

(2) The Energy Commission may, in order to ensure compliance with the greenhouse gases emission performance standard by local publicly owned electric utilities, apply the procedures adopted by the commission to verify the emissions of greenhouse gases from baseload generation pursuant to subdivision (b).

(3) In determining whether a long-term financial commitment is for baseload generation, the Energy Commission shall consider the design of the powerplant and the intended use of the powerplant, as determined by the Energy Commission based upon the electricity purchase contract, any certification received from the Energy Commission, any other permit

for the operation of the powerplant, any procurement approval decision for the load-serving entity, and any other matter the Energy Commission determines is relevant under the circumstances.

(d) (1) On or before February 1, 2007, the commission, through a rulemaking proceeding, and in consultation with the Energy Commission and the State Air Resources Board, shall establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities, at a rate of emissions of greenhouse gases that is no higher than the rate of emissions of greenhouse gases for combined-cycle natural gas baseload generation. Enforcement of the greenhouse gases emission performance standard shall begin immediately upon the establishment of the standard. All combined-cycle natural gas powerplants that are in operation, or that have an Energy Commission final permit decision to operate as of June 30, 2007, shall be deemed to be in compliance with the greenhouse gases emission performance standard.

(2) In determining the rate of emissions of greenhouse gases for baseload generation, the commission shall include the net emissions resulting from the production of electricity by the baseload generation.

(3) The commission shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(4) In calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, or landfill gas energy, the commission shall consider net emissions from the process of growing, processing, and generating the electricity from the fuel source.

(5) Carbon dioxide that is injected in geological formations, so as to prevent releases into the atmosphere, in compliance with applicable laws and regulations shall not be counted as emissions of the powerplant in determining compliance with the greenhouse gases emissions performance standard.

(6) In adopting and implementing the greenhouse gases emission performance standard, the commission, in consultation with the Independent System Operator shall consider the effects of the standard on system reliability and overall costs to electricity customers.

(7) In developing and implementing the greenhouse gases emission performance standard, the commission shall address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(8) In developing and implementing the greenhouse gases emission performance standard, the commission shall consider and act in a manner

consistent with any rules adopted pursuant to Section 824a-3 of Title 16 of the United States Code.

(9) An electrical corporation that provides electric service to 75,000 or fewer retail end-use customers in California may file with the commission a proposal for alternative compliance with this section, which the commission may accept upon a showing by the electrical corporation of both of the following:

(A) A majority of the electrical corporation's retail end-use customers for electric service are located outside of California.

(B) The emissions of greenhouse gases to generate electricity for the retail end-use customers of the electrical corporation are subject to a review by the utility regulatory commission of at least one other state in which the electrical corporation provides regulated retail electric service.

(e) (1) On or before June 30, 2007, the Energy Commission, at a duly noticed public hearing and in consultation with the commission and the State Air Resources Board, shall establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities at a rate of emissions of greenhouse gases that is no higher than the rate of emissions of greenhouse gases for combined-cycle natural gas baseload generation. The greenhouse gases emission performance standard established by the Energy Commission for local publicly owned electric utilities shall be consistent with the standard adopted by the commission for load-serving entities. Enforcement of the greenhouse gases emission performance standard shall begin immediately upon the establishment of the standard. All combined-cycle natural gas powerplants that are in operation, or that have an Energy Commission final permit decision to operate as of June 30, 2007, shall be deemed to be in compliance with the greenhouse gases emission performance standard.

(2) The greenhouse gases emission performance standard shall be adopted by regulation pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(3) In determining the rate of emissions of greenhouse gases for baseload generation, the Energy Commission shall include the net emissions resulting from the production of electricity by the baseload generation.

(4) The Energy Commission shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(5) In calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, or landfill gas energy, the Energy Commission shall consider net emissions from the process of growing, processing, and generating the electricity from the fuel source.

(6) Carbon dioxide that is captured from the emissions of a powerplant and that is permanently disposed of in geological formations in compliance with applicable laws and regulations, shall not be counted as emissions from the powerplant.

(7) In adopting and implementing the greenhouse gases emission performance standard, the Energy Commission, in consultation with the Independent System Operator, shall consider the effects of the standard on system reliability and overall costs to electricity customers.

(8) In developing and implementing the greenhouse gases emission performance standard, the Energy Commission shall address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(9) In developing and implementing the greenhouse gases emission performance standard, the Energy Commission shall consider and act in a manner consistent with any rules adopted pursuant to Section 824a-3 of Title 16 of the United States Code.

(f) The Energy Commission, in a duly noticed public hearing and in consultation with the commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to local publicly owned electric utilities.

(g) The commission, through a rulemaking proceeding and in consultation with the Energy Commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to load-serving entities.

SEC. 224. 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 rights-of-way 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. 225. Section 18766 of the Revenue and Taxation Code is amended to read:

18766. (a) This article 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 that date.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Alzheimer's Disease and Related Disorders Research Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Secretary of California Health and Human Services of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contributions amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the 2000 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2001, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 226. Section 18847.3 of the Revenue and Taxation Code is amended to read:

18847.3. (a) Except as otherwise provided in subdivision (b), this article 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.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Colorectal Cancer Prevention Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contributions amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the State Department of Health Services of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the 2007 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the 2008 calendar year, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year, multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California

Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 226.5. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(c) Payment of delinquent wages collected pursuant to the Labor Code.

(d) Payment of delinquencies collected under Section 10878.

(e) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.

(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.

(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.

(i) Payment of delinquencies referred by the Student Aid Commission.

(j) Notwithstanding the payment priority established by this section, voluntary payments made by a taxpayer designated by the taxpayer as payment for a personal income tax liability, shall not be applied pursuant to this priority, but shall instead be applied solely to the personal income tax liability for which the voluntary payment was made.

SEC. 227. Section 23704.4 of the Revenue and Taxation Code is amended to read:

23704.4. Section 501(k) of the Internal Revenue Code, relating to the treatment of certain organizations providing care of children, shall apply, except as otherwise provided.

(a) The reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(b) The reference to Section 2522(a)(2) of the Internal Revenue Code, relating to the computation of taxable gifts or Internal Revenue Code Section 2055, relating to transfers for public, charitable, and religious uses, shall not apply.

SEC. 228. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), every distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media, with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Every distributor that elects, pursuant to Section 30168, to make deferred payments on a twice-monthly basis shall file a report in the form as prescribed by the board, that may include, but not be limited to, electronic media, with respect to distributions of cigarettes and purchases of stamps and meter register units during the month following the month in which the distribution occurred and the stamps and meter register settings were purchased, and any other information as the board may require to carry out this part. The monthly report shall be filed on or before the fifth day of the month with respect to those distributions of cigarettes and purchases of stamps and meter register settings that were made during the preceding month.

(c) Reports shall be authenticated in a form, or pursuant to methods, as may be prescribed by the board.

SEC. 229. Section 97 of the Streets and Highways Code is amended to read:

97. (a) In order to be designated by statute as a Safety Enhancement-Double Fine Zone, a highway or road segment shall have experienced a significant number of traffic accidents, injuries, and fatalities within the prior three-year period, and other traffic safety measures that have been undertaken shall have not appreciably reduced the level of those incidents.

(b) The concurrence in the designation of the Department of the California Highway Patrol or local agency having traffic enforcement jurisdiction, as the case may be, shall be required prior to designation of the zone pursuant to statute, along with a resolution supporting the designation from the city, or county with respect to an unincorporated area, in which the segment is located.

(c) Each local governing body where a double fine zone is designated by statute in its jurisdiction shall, prior to the establishment of a double fine zone, do the following:

(1) Undertake a public awareness campaign to inform the public of the double fine zone designation, where it is located, its purpose, and its consequences.

(2) Where appropriate, increased traffic safety enhancements, enforcement, and other roadway safety measures shall be implemented in coordination with the establishment of the double fine zone.

(d) A Safety Enhancement-Double Fine Zone is subject to the rules and regulations adopted by the department prescribing uniform standards for warning signs to notify motorists that, pursuant to Section 42010 of the Vehicle Code, increased penalties apply for traffic violations that are committed within a Safety Enhancement-Double Fine Zone.

(e) The department or the local authority having jurisdiction over these highway and road segments shall place and maintain the warning signs identifying these segments by stating that a "Special Safety Zone Region Begins Here" and a "Special Safety Zone Ends Here." The department shall adopt rules and regulations for the administration of a Safety Enhancement-Double Fine Zone under this section.

(f) Safety Enhancement-Double Fine Zones do not increase the civil liability of the state or local authority having jurisdiction over the highway segment under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(1) Only the base fine shall be enhanced pursuant to this section.

(2) Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.

(g) The projects specified as a Safety Enhancement-Double Fine Zone shall not be elevated in priority for state funding purposes.

(h) The term for a Safety Enhancement-Double Fine Zone shall be limited to four years.

(i) The Department of Transportation shall conduct an evaluation of the effectiveness of all double fine zones that will terminate the same calendar year and submit its findings in one report to the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing one year prior to the termination of the double fine zones. The report shall include a recommendation on whether the zones should be reauthorized by the Legislature.

SEC. 230. Section 97.1 of the Streets and Highways Code is amended to read:

97.1. (a) A highway segment shall be designated as a Safety Awareness Zone if all of the following conditions have been met:

(1) The highway segment is eligible for designation under Section 97.01.

(2) Each local governing body or bodies, with jurisdiction over the area or areas in which the eligible segment is located, has adopted a resolution indicating its support for the designation as well as a Safety Awareness Zone Plan addressing education, enforcement, and engineering measures intended to support the designation.

(3) If the highway segment is a state highway, the Safety Awareness Zone Plan has been approved by the Director of Transportation and the Commissioner of the Department of the California Highway Patrol.

(b) A Safety Awareness Zone designation shall be deemed effective immediately upon satisfaction of all requirements pursuant to subdivision (a) and may remain in effect for a period not to exceed three years from the effective date. The designation may be renewed for a period not to exceed three years. Renewal of a designation for a highway segment that is a state highway shall require the approval by the Director of Transportation and the Commissioner of the Department of the California Highway Patrol of an updated Safety Awareness Zone Plan.

(c) The department shall develop a sign to notify motorists of the presence of a Safety Awareness Zone, and shall place and maintain the signs for as long as the designation is in effect pursuant to this section.

(d) Presence of a Safety Awareness Zone does not increase the civil liability of the state or local authority having jurisdiction over the highway segment under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(e) Projects on a highway segment specified as a Safety Awareness Zone shall not be elevated in priority for state funding purposes.

(f) For purposes of this section, "highway" has the meaning set forth in Section 360 of the Vehicle Code.

SEC. 231. Section 143 of the Streets and Highways Code is amended to read:

143. (a) (1) "Regional transportation agency" means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency

or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(2) "Transportation project" means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of paragraph (2) of subdivision (b).

(b) (1) Notwithstanding any other provision of law, only the department, in cooperation with regional transportation agencies, and regional transportation agencies, may solicit proposals, accept unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with public or private entities, or consortia thereof, for transportation projects.

(2) The number of projects authorized pursuant to this section shall be limited to two projects in northern California and two projects in southern California. The California Transportation Commission shall select the candidate projects from projects nominated by the department or a regional transportation agency. No fewer than two of the selected projects shall be nominated by a regional transportation agency. The projects shall be primarily designed to improve goods movement, including, but not limited to, exclusive truck lanes and rail access and operational improvements. The projects shall address a known forecast demand, as determined by the department or regional transportation agency.

(3) All negotiated lease agreements shall be submitted to the Legislature for approval or rejection. Prior to submitting a lease agreement to the Legislature, the department or regional transportation agency shall conduct at least one public hearing at a location at or near the proposed facility for purposes of receiving public comment on the lease agreement. Public comments made during this hearing shall be submitted to the Legislature with the lease agreement. Unless the Legislature passes a resolution, with both houses concurring, rejecting a negotiated lease agreement within 60 legislative days of the agreement being submitted to it, the agreement shall be deemed approved. A lease agreement may not be amended by the Legislature.

(c) For the purpose of facilitating those projects, the agreements between the parties may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public streets, rail, or related facilities for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the construction of transportation projects. Facilities subject to an agreement under this

section shall, at all times, be owned by the department or the regional transportation agency, as appropriate. For department projects, the commission shall certify the department's determination of the useful life of the project in establishing the lease agreement terms. In consideration therefor, the agreement shall provide for complete reversion of the leased facility, together with the right to collect tolls and user fees, to the department or regional transportation agency, at the expiration of the lease at no charge to the department or regional transportation agency. At time of the reversion, the facility shall be delivered to the department or regional transportation agency, as applicable, in a condition that meets the performance and maintenance standards established by the department and that is free of any encumbrance, lien, or other claims.

(d) (1) The department or a regional transportation agency may exercise any power possessed by it with respect to transportation projects to facilitate the transportation projects pursuant to this section. The department, regional transportation agency, and other state or local agencies may provide services to the contracting entity for which the public entity is reimbursed, including, but not limited to, planning, environmental planning, environmental certification, environmental review, preliminary design, design, right-of-way acquisition, construction, maintenance, and policing of these transportation projects. The department or regional transportation agency, as applicable, shall regularly inspect the facility and require the lessee to maintain and operate the facility according to adopted standards. The lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs.

(2) In selecting private entities with which to enter into these agreements, notwithstanding any other provision of law, the department and regional transportation agencies may utilize, but are not limited to utilizing, one or more of the following procurement approaches:

(A) Solicitations of proposals for defined projects and calls for project proposals within defined parameters.

(B) Prequalification and short-listing of proposers prior to final evaluation of proposals.

(C) Final evaluation of proposals based on qualifications, best value, or both. If final evaluation is to be based on best value, the California Transportation Commission shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

(E) Acceptance of unsolicited proposals, with issuance of requests for competing proposals.

(3) No agreement entered into pursuant to this section shall infringe on the authority of the department or a regional transportation agency

to develop, maintain, repair, rehabilitate, operate, or lease any transportation project. Lease agreements may provide for reasonable compensation to the leaseholder for the adverse effects on toll revenue or user fee revenue due to the development, operation, or lease of supplemental transportation projects with the exception of any of the following:

(A) Projects identified in regional transportation plans prepared pursuant to Section 65080 of the Government Code and submitted to the commission as of the date the commission selected the project to be developed through a lease agreement, as provided in this section, unless provided by the lease agreement approved by the department or regional transportation agency and the commission.

(B) Safety projects.

(C) Improvement projects that will result in incidental capacity increases.

(D) Additional high-occupancy vehicle lanes or the conversion of existing lanes to high-occupancy vehicle lanes.

(E) Projects located outside the boundaries of a public-private partnership project, to be defined by the lease agreement.

However, compensation to a leaseholder shall only be made after a demonstrable reduction in use of the facility resulting in reduced toll or user fee revenues, and may not exceed the reduction in those revenues.

(e) (1) Agreements entered into pursuant to this section shall authorize the contracting entity to impose tolls and user fees for use of a facility constructed by it, and shall require that over the term of the lease the toll revenues and user fees be applied to payment of the capital outlay costs for the project, the costs associated with operations, toll and user fee collection, administration of the facility, reimbursement to the department or other governmental entity for the costs of services to develop and maintain the project, police services, and a reasonable return on investment. The agreement shall require that, notwithstanding Sections 164, 188, and 188.1, any excess toll or user fee revenue either be applied to any indebtedness incurred by the contracting entity with respect to the project, improvements to the project, or be paid into the State Highway Account, or for all three purposes, except that any excess toll revenue under a lease agreement with a regional transportation agency may be paid to the regional transportation agency for use in improving public transportation in and near the project boundaries.

(2) Lease agreements shall establish specific toll or user fee rates. Any proposed increase in those rates during the term of the agreement shall first be approved by the department or regional transportation agency after at least one public hearing conducted at a location near the proposed or existing facility.

(3) The collection of tolls and user fees for the use of these facilities may be extended by the commission or regional transportation agency at the expiration of the lease agreement. However, those tolls or user fees may not be used for any purpose other than for the improvement, continued operation, or maintenance of the facility.

(4) Tolls and user fees may not be charged to noncommercial vehicles with three or fewer axles.

(f) The plans and specifications for each transportation project developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to this section shall comply with the department's standards for state transportation projects. The lease agreement shall include performance standards, including, but not limited to, levels of service. The agreement shall require facilities on the state highway system to meet all requirements for noise mitigation, landscaping, pollution control, and safety that otherwise would apply if the department were designing, building, and operating the facility. If a facility is on the state highway system, the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Failure to comply with the lease agreement in any significant manner shall constitute a default under the agreement and the department or the regional transportation agency, as appropriate, shall have the option to initiate processes to revert the facility to the public agency.

(h) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(i) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(j) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Section 149.4, 149.5, or 149.6.

(k) Nothing in this section shall be construed to allow the conversion of any existing nontoll or nonuser-fee lanes into tolled or user fee lanes with the exception of a high-occupancy vehicle lane that may be operated as a high-occupancy toll lane for vehicles not otherwise meeting the requirements for use of that lane.

(*l*) The lease agreement shall require the lessee to provide any information or data requested by the California Transportation Commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the

progress of each project and ultimately on the operation of the resulting facility. The report shall include, but not be limited to, a review of the performance standards, a financial analysis, and any concerns or recommendations for changes in the future.

(m) No lease agreements may be entered into under this section on or after January 1, 2012.

SEC. 232. Section 149.7 of the Streets and Highways Code is amended to read:

149.7. (a) A regional transportation agency, as defined in Section 143, in cooperation with the department, may apply to the commission to develop and operate high-occupancy toll lanes, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit, consistent with the established standards, requirements, and limitations that apply to those facilities in Sections 149, 149.1, 149.3, 149.4, 149.5, and 149.6.

(b) The commission shall review each application for the development and operation of the facilities described in subdivision (a) according to eligibility criteria established by the commission. For each eligible application, the commission shall conduct at least one public hearing in northern California and one in southern California.

(c) Following public hearings, the commission shall submit an eligible application and any public comments made during the hearings to the Legislature for approval or rejection. Approval shall be achieved by the enactment of a statute. The number of facilities approved under this section shall not exceed four, two in northern California and two in southern California.

(d) A regional transportation agency that develops or operates a facility, or facilities, described in subdivision (a) shall provide any information or data requested by the commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of the development and operation of a facility authorized under this section. The commission may submit this report as a section in its annual report to the Legislature required pursuant to Section 14535 of the Government Code.

(e) No applications may be approved under this section on or after January 1, 2012.

SEC. 233. Section 5160 of the Vehicle Code is amended to read:

5160. (a) A state agency authorized under this article to offer specialized license plates shall prepare and submit an annual accounting report to the department by June 30. The report shall include an accounting of all revenues and expenditures associated with the specialized license plate program.

(b) If a state agency submits a report pursuant to subdivision (a) indicating that the agency violated the expenditure restriction set forth in Section 5159, the department shall immediately cease depositing fees for that agency's specialized license plate program in the Specialized License Plate Fund established under Section 5157 and, instead, shall deposit those fees that would have otherwise been deposited in that fund in a separate fund created by the Controller, which fund is subject to appropriation by the Legislature. The department shall immediately notify the agency of this course of action. The depositing of funds in the account established pursuant to this subdivision shall continue until the agency demonstrates to the satisfaction of the department that the agency is in compliance or will comply with the requirements of Section 5159. If one year from the date that the agency receives the notice described in this subdivision, the agency is still unable to satisfactorily demonstrate to the department that it is in compliance or will comply with Section 5159, the department shall no longer issue or replace those specialized license plates associated with that agency. Those particular specialized license plates that were issued prior to the discontinuation provided by this subdivision may continue to be used and attached to the vehicle for which they were issued and may be renewed, retained, or transferred pursuant to this code.

(c) Upon receiving the reports required under subdivision (a), notwithstanding Section 7550.5 of the Government Code, the department shall prepare and transmit an annual consolidated report to the Legislature containing the revenue and expenditure data.

SEC. 234. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of a dealer's license issued under this article to do any of the following:

(a) Advertise a specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California. Any advertisement that offers for sale a class of new vehicles in a dealer's inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing fees not exceeding fifty dollars ($50),

actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed fifty-five dollars ($55).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of a certificate of compliance or noncompliance pursuant to a statute, finance charges, and a dealer document preparation charge.

(2) The obligations imposed by paragraph (1) are satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: "Plus government fees and taxes, any finance charges, any dealer document preparation charge, and any emission testing charge."

(3) For purposes of paragraph (1), "advertisement" means an advertisement in a newspaper, magazine, or direct mail publication that is two or more columns in width or one column in width and more than seven inches in length, or on a Web page of a dealer's Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to a person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of a certificate of compliance or noncompliance pursuant to a statute, finance charges, mobilehome escrow fees, the amount of a city, county, or city and county imposed fee or tax for a mobilehome, and a dealer document preparation charge, which charges shall not exceed fifty-five dollars ($55) for the document preparation charge and not to exceed fifty dollars ($50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed. Advertised vehicles shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale a new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to a transaction involving the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.

(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating of more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. "Free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) (1) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as "starting at," "from," "beginning as low as," or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

(2) For purposes of this subdivision, in a newspaper advertisement for a vehicle that is two model-years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price. However, in no case shall the phrase be printed in less than 8-point type size, and the phrase shall be disclosed immediately above, below, or beside the advertised price without intervening words, pictures, marks, or symbols.

(3) The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use "rebate" or similar words, including, but not limited to, "cash back," in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use "invoice," "dealer's invoice," "wholesale price," or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) A communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.

(B) A communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate a law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make an untrue or misleading statement indicating that a vehicle is equipped with all the factory-installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on a new vehicle a supplemental price sticker containing a price that represents the dealer's asking price that exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item that is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise an underselling claim, including, but not limited to, "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than another licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) (1) Advertise an incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

(2) For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale a used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point boldface type on the face of a contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

(y) As used in this section, "make" and "model" have the same meaning as is provided in Section 565.3 of Title 49 of the Code of Federal Regulations.

SEC. 235. Section 12804.9 of the Vehicle Code is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination for any applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through any acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any grounds exist for refusal of a license under this code.

(2) The examination for a class A or class B driver's license under subdivision (b) shall also include a report of a medical examination of

the applicant given not more than two years prior to the date of the application by a health care professional. As used in this paragraph, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and registered advanced practice nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers by the federal Department of Transportation. The report shall be on a form approved by the department, the federal Department of Transportation, or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration.

(3) A physical defect of the applicant that, in the opinion of the department, is compensated for to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, an applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) A combination of vehicles, if a vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) A vehicle towing more than one vehicle.

(C) A trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) A single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) A single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) A bus except a trailer bus.

(D) A farm labor vehicle.

(E) A single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) A house car over 40 feet in length, excluding safety devices and safety bumpers.

(G) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) A two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), a two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) A house car of 40 feet in length or less.

(D) A three-axle vehicle weighing 6,000 pounds gross or less.

(E) A house car of 40 feet in length or less or vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. A person driving a vehicle may not tow another vehicle in violation of Section 21715.

(F) (i) A two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) A two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway.

The authority to operate combinations of vehicles under this subparagraph may be granted by endorsement on a class C license upon completion of that written examination.

(G) A vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating, as those terms are defined in subdivisions (j) and (k), respectively, of Section 15210, of 26,000 pounds or less, if all of the following conditions are met:

(i) Is operated by a farmer, an employee of a farmer, or an instructor credentialed in agriculture as part of an instructional program in agriculture at the high school, community college, or university level.

(ii) Is used exclusively in the conduct of agricultural operations.

(iii) Is not used in the capacity of a for-hire carrier or for compensation.

(H) A motorized scooter.

(I) Class C does not include a two-wheel motorcycle or a two-wheel motor-driven cycle.

(4) Class M1. A two-wheel motorcycle or a motor-driven cycle. Authority to operate a vehicle included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) (A) Class M2 includes the following:

(i) A motorized bicycle or moped, or a bicycle with an attached motor, except a motorized bicycle described in subdivision (b) of Section 406.

(ii) A motorized scooter.

(B) Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination, except that no endorsement is required for a motorized scooter. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) A driver's license or driver certificate is not valid for operating a commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold any driver certificate or any driver's license endorsement under Section 15275, unless a medical certificate approved by the department, the federal Department of Transportation, or the Federal Aviation Administration, that has been issued within two years of the date of the operation of that vehicle, is within the licensee's immediate possession, and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise, the license is valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) is valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), a person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this subdivision, "short-term" means 48 hours or less.

(i) A person under the age of 21 years may not be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) A driver of a vanpool vehicle may operate with a class C license but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

(k) A class M license issued between January 1, 1989, and December 31, 1992, shall permit the holder to operate any motorcycle, motor-driven cycle, or motorized bicycle until the expiration of the license.

SEC. 236. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. If an offense specified in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Sections 15300 to 15302, inclusive. For the purposes of this section, suspension or revocation shall be as follows:

(1) Except as required under Section 13352.1 or 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, the privilege shall be suspended for a period of six months.

The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538 of this code. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll, participate and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in subdivision (b) of Section 23538. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23554, the privilege shall be suspended for a period of one year. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23556 of this code. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll, participate, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in Section 23556. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23540, the privilege shall be suspended for two years. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23542 of this code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current

violation. The department shall advise the person that after completion of 12 months of the suspension period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily provided, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in subparagraph (A).

(C) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(D) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(E) The person provides proof of financial responsibility, as defined in Section 16430.

(F) The person pays all administrative fees or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(4) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23562 of this code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in that 30-month program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(F) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(5) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23546, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) or (c) of Section 23548 of this code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23546 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(6) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23550.5 or 23566, the privilege shall be revoked for a period of five years. The privilege may not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23568 or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved

program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3 of this code, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(ii) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(7) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23550 or 23550.5, or Section 23153 punishable under Section 23550.5, the privilege shall be revoked for a period of four years. The privilege may not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of one

of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3 of this code, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23550 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if ordered by the court. The privilege may not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if ordered by the court. The privilege may not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) A judge of a juvenile court, juvenile hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada that, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and a conviction of an offense that, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) For the purposes of the restriction conditions specified in paragraphs (3) to (7), inclusive, of subdivision (a), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(f) For the purposes of this section, completion of a program is the following:

(1) Satisfactory completion of all program requirements approved pursuant to program licensure, as evidenced by a certificate of completion issued, under penalty of perjury, by the licensed program.

(2) Certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code, that the person has completed a program specified in Section 8001 of the Penal Code.

(g) The holder of a commercial driver's license who was operating a commercial motor vehicle, as defined in Section 15210, at the time of a violation that resulted in a suspension or revocation of the person's noncommercial driving privilege under this section is not eligible for the restricted driver's license authorized under paragraphs (3) to (7), inclusive, of subdivision (a).

SEC. 237. Section 13352.1 of the Vehicle Code is amended to read:

13352.1. (a) Pursuant to subdivision (a) of Section 13352 and except as required under Section 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, if the court refers the person to a program pursuant to paragraph (2) of subdivision (b) of Section 23538, the privilege shall be suspended for 10 months.

(b) The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538 of this code. For the purposes of this subdivision, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

SEC. 238. Section 13353.2 of the Vehicle Code is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of a person to operate a motor vehicle for any one of the following reasons:

(1) The person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(2) The person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

(3) The person was driving a vehicle that requires a commercial driver's license when the person had a 0.04 percent or more, by weight, of alcohol in his or her blood.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 13382 or 13388. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 13382 or 13388, upon the receipt of the report of a peace officer submitted pursuant to Section 13380, the department shall mail written notice of

the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs from the address of record, to that address.

(c) The notice of the order of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 13380. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter that is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), or if the person's driver's license was suspended pursuant to Section 13388 and the department finds no basis for a suspension pursuant to that section, the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the remaining term any driver's license that has been taken from the person pursuant to Section 13382 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23140, 23152, or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer

shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. No fee shall be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect any action to suspend or revoke the person's privilege to operate a motor vehicle under any other provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 239. Section 13385 of the Water Code, as amended by Section 3 of Chapter 404 of the Statutes of 2006, is amended to read:

13385. (a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Any requirements established pursuant to Section 13383.

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.

(6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(1) Twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed twenty-five dollars ($25) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(d) For purposes of subdivisions (b) and (c), "discharge" includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

(f) (1) Except as provided in paragraph (2), for the purposes of this section, a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(2) (A) For the purposes of subdivisions (h) and (i), a single operational upset in a wastewater treatment unit that treats wastewater using a biological treatment process shall be treated as a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (*l*), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (*l*), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a "period of six consecutive months" means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

(j) Subdivisions (h) and (i) do not apply to any of the following:

(1) A violation caused by one or any combination of the following:

(A) An act of war.

(B) An unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(C) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(D) (i) The operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit, if all of the following requirements are met:

(I) The discharger has submitted to the regional board, at least 30 days in advance of the operation, an operations plan that describes the actions the discharger will take during the period of adjusting and testing, including steps to prevent violations and identifies the shortest reasonable time required for the period of adjusting and testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit.

(II) The regional board has not objected in writing to the operations plan.

(III) The discharger demonstrates that the violations resulted from the operation of the new or reconstructed wastewater treatment unit and that the violations could not have reasonably been avoided.

(IV) The discharger demonstrates compliance with the operations plan.

(V) In the case of a reconstructed wastewater treatment unit, the unit relies on a biological treatment process that is required to be out of operation for at least 14 days in order to perform the reconstruction, or the unit is required to be out of operation for at least 14 days and, at the time of the reconstruction, the cost of reconstructing the unit exceeds 50 percent of the cost of replacing the wastewater treatment unit.

(ii) For the purposes of this section, "wastewater treatment unit" means a component of a wastewater treatment plant that performs a designated treatment function.

(2) (A) Except as provided in subparagraph (B), a violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all of the following requirements are met:

(i) The cease and desist order or time schedule order is issued after January 1, 1995, but not later than July 1, 2000, specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), and the date by which compliance is required to be achieved and, if the final date by which compliance is required to be achieved is later than one year from the effective date of the cease and desist order or time schedule order,

specifies the interim requirements by which progress towards compliance will be measured and the date by which the discharger will be in compliance with each interim requirement.

(ii) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan that meets the requirements of Section 13263.3.

(iii) The discharger demonstrates that it has carried out all reasonable and immediately feasible actions to reduce noncompliance with the waste discharge requirements applicable to the waste discharge and the executive officer of the regional board concurs with the demonstration.

(B) Subdivisions (h) and (i) shall become applicable to a waste discharge on the date the waste discharge requirements applicable to the waste discharge are revised and reissued pursuant to Section 13380, unless the regional board does all of the following on or before that date:

(i) Modifies the requirements of the cease and desist order or time schedule order as may be necessary to make it fully consistent with the reissued waste discharge requirements.

(ii) Establishes in the modified cease and desist order or time schedule order a date by which full compliance with the reissued waste discharge requirements shall be achieved. For the purposes of this subdivision, the regional board may not establish this date later than five years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380. If the reissued waste discharge requirements do not add new effluent limitations or do not include effluent limitations that are more stringent than those in the original waste discharge requirements, the date shall be the same as the final date for compliance in the original cease and desist order or time schedule order or five years from the date that the waste discharge requirements were required to be reviewed pursuant to Section 13380, whichever is earlier.

(iii) Determines that the pollution prevention plan required by clause (ii) of subparagraph (A) is in compliance with the requirements of Section 13263.3 and that the discharger is implementing the pollution prevention plan in a timely and proper manner.

(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(iii) Unanticipated changes in the quality of the municipal or industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, the changes in the composition of the waste discharge are the cause of the inability to comply with the effluent limitation, no alternative water supply is reasonably available to the discharger, and new or modified measures to control the composition of the waste discharge cannot be designed, installed, and put into operation within 30 calendar days.

(iv) The discharger is a publicly owned treatment works located in Orange County that is unable to meet effluent limitations for biological oxygen demand, suspended solids, or both, because the publicly owned treatment works meets all of the following criteria:

(I) Was previously operating under modified secondary treatment requirements pursuant to Section 301(h) of the Clean Water Act (33 U.S.C. Sec. 1311(h)).

(II) Did vote on July 17, 2002, not to apply for a renewal of the modified secondary treatment requirements.

(III) Is in the process of upgrading its treatment facilities to meet the secondary treatment standards required by Section 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec. 1311(b)(1)(B)).

(C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. For the purposes of this subdivision, the time schedule may not exceed five years in length, except that the time schedule may not

exceed 10 years in length for the upgrade described in subclause (III) of clause (iv) of subparagraph (B). If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(i) Effluent limitations for the pollutant or pollutants of concern.

(ii) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k) (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.

(C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.

(*l*) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars ($15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars ($15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars ($15,000).

(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees

to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

(3) This subdivision applies to the imposition of penalties pursuant to subdivision (h) or (i) on or after January 1, 2003, without regard to the date on which the violation occurs.

(m) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability or penalty imposed pursuant to this section. Any person who fails to pay on a timely basis any liability or penalty imposed under this section shall be required to pay, in addition to that liability or penalty, interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person's penalty and nonpayment penalties that are unpaid as of the beginning of the quarter.

(n) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, moneys collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (5) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443.

(o) The state board shall continuously report and update information on its Internet Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

(1) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.

(2) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions.

(3) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(p) The amendments made to subdivisions (f), (h), (i) and (j) during the second year of the 2001–02 Regular Session apply only to violations that occur on or after January 1, 2003.

SEC. 240. 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) 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.

SEC. 241. Section 50780.10 of the Water Code is amended to read:

50780.10. A "voter" means any of the following:

(a) A landowner or the legal representative of a landowner.

(b) A voter as defined in Section 359 of the Elections Code who resides within the boundaries of the district.

(c) A voter as defined in subdivision (a) may vote for both parcel seats and land assessment seats.

(d) A voter as defined in subdivision (a) who is also a voter as defined in subdivision (b) may vote for both resident voter seats and land assessment seats.

SEC. 242. Section 202 of the Welfare and Institutions Code is amended to read:

202. (a) The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out these purposes.

(b) Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment, and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. If a minor has been removed from the custody of his or her parents, family preservation and family reunification are appropriate goals for the juvenile court to consider when determining the disposition of a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct when those goals are consistent with his or her best interests and the best interests of the public. When the minor is no longer a ward of the juvenile court, the guidance he or she received

should enable him or her to be a law-abiding and productive member of his or her family and the community.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period in which the minor may be declared a ward of the court and removed from the custody of the parent.

(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold themselves accountable for its results. They shall act in conformity with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner. In working to improve system performance, the presiding judge of the juvenile court and other juvenile court judges designated by the presiding judge of the juvenile court shall take into consideration the recommendations contained in subdivision (e) of Standard 5.40 of Title 5 of the California Standards of Judicial Administration, contained in the California Rules of Court.

(e) As used in this chapter, "punishment" means the imposition of sanctions. It does not include retribution and shall not include a court order to place a child in foster care as defined by Section 727.3. Permissible sanctions may include any of the following:

(1) Payment of a fine by the minor.

(2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.

(3) Limitations on the minor's liberty imposed as a condition of probation or parole.

(4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp, or ranch.

(5) Commitment of the minor to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation.

(f) In addition to the actions authorized by subdivision (e), the juvenile court may, as appropriate, direct the offender to complete a victim impact class, participate in victim offender conferencing subject to the victim's consent, pay restitution to the victim or victims, and make a contribution to the victim restitution fund after all victim restitution orders and fines have been satisfied, in order to hold the offender accountable or restore the victim or community.

SEC. 243. Section 319 of the Welfare and Institutions Code is amended to read:

319. (a) At the initial petition hearing, the court shall examine the child's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the child, the child's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the child, as provided in Section 350.

(b) The social worker shall report to the court on the reasons why the child has been removed from the parent's physical custody, the need, if any, for continued detention, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child's parents or guardians, and whether there are any relatives who are able and willing to take temporary physical custody of the child. The court shall order the release of the child from custody unless a prima facie showing has been made that the child comes within Section 300, the court finds that continuance in the parent's or guardian's home is contrary to the child's welfare, and any of the following circumstances exist:

(1) There is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parent's or guardian's physical custody.

(2) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(3) The child has left a placement in which he or she was placed by the juvenile court.

(4) The child indicates an unwillingness to return home, if the child has been physically or sexually abused by a person residing in the home.

(c) If the matter is continued pursuant to Section 322 or for any other reason, the court shall find that the continuance of the child in the parent's or guardian's home is contrary to the child's welfare at the initial petition hearing or order the release of the child from custody.

(d) (1) The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home, pursuant to subdivision (b) of Section 306, and whether there are available services that would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review

whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) and Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 would have eliminated the need to take temporary custody of the child or would prevent the need for further detention.

(2) If the child can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the child with his or her parent or guardian and order that the services shall be provided. If the child cannot be returned to the physical custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child, and has been assessed pursuant to paragraph (1) of subdivision (d) of Section 309.

(e) If a court orders a child detained, the court shall state the facts on which the decision is based, specify why the initial removal was necessary, reference the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian is contrary to the child's welfare, order temporary placement and care of the child to be vested with the county child welfare department pending the hearing held pursuant to Section 355 or further order of the court, and order services to be provided as soon as possible to reunify the child and his or her family if appropriate.

(f) (1) If the child is not released from custody, the court may order that the child shall be placed in the assessed home of a relative, in an emergency shelter or other suitable licensed place, in a place exempt from licensure designated by the juvenile court, or in the assessed home of a nonrelative extended family member as defined in Section 362.7 for a period not to exceed 15 judicial days.

(2) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult who is a grandparent, aunt, uncle, or sibling of the child.

(3) The court shall consider the recommendations of the social worker based on the assessment pursuant to paragraph (1) of subdivision (d) of Section 309 of the relative's home, including the results of a criminal records check and prior child abuse allegations, if any, prior to ordering that the child be placed with a relative. The court shall order the parent to disclose to the social worker the names, residences, and any known

identifying information of any maternal or paternal relatives of the child. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

(g) (1) At the initial hearing upon the petition filed in accordance with subdivision (c) of Rule 5.520 of the California Rules of Court or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, the court may temporarily limit the right of the parent or guardian to make educational decisions for the child and temporarily appoint a responsible adult to make educational decisions for the child if all of the following conditions are found:

(A) The parent or guardian is unavailable, unable, or unwilling to exercise educational rights for the child.

(B) The county placing agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational decisionmaking.

(C) The child's educational needs cannot be met without the temporary appointment of a responsible adult.

(2) If the court cannot identify a responsible adult to make educational decisions for the child and the appointment of a surrogate parent, as defined in subdivision (a) of Section 56050 of the Education Code, is not warranted, the court may, with the input of any interested person, make educational decisions for the child. If the court makes educational decisions for the child, the court shall also issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational decisions for the child.

(3) Any temporary appointment of a responsible adult and temporary limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. Any order made under this section shall expire at the conclusion of the hearing held pursuant to Section 361 or upon dismissal of the petition. Upon the entering of disposition orders, any additional needed limitation on the parent's or guardian's educational rights shall be addressed pursuant to Section 361.

SEC. 244. 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 Chapter 3 (commencing with Section 1500) of Division 2 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 Chapter 3 (commencing with Section 1500) of Division 2 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.

SEC. 245. Section 9103 of the Welfare and Institutions Code is amended 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 the 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. 246. Section 11155.6 of the Welfare and Institutions Code is amended 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 consideration 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. 247. Section 14107.2 of the Welfare and Institutions Code is amended to read:

14107.2. (a) Any person who solicits or receives any remuneration, including, but not restricted to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in valuable consideration of any kind either:

(1) In return for the referral, or promised referral, of any individual to a person for the furnishing or arranging for the furnishing of any service or merchandise for which payment may be made in whole or in part under this chapter or Chapter 8 (commencing with Section 14200); or

(2) In return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any goods, facility, service or merchandise for which payment may be made, in whole or in part, under this chapter or Chapter 8 (commencing with Section 14200), is punishable upon a first conviction by imprisonment in a county jail for not longer than one year or state prison, or by a fine not exceeding ten thousand dollars

($10,000), or by both that imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

(b) Any person who offers or pays any remuneration, including, but not restricted to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in valuable consideration of any kind either:

(1) To refer any individual to a person for the furnishing or arranging for furnishing of any service or merchandise for which payment may be made, in whole or in part, under this chapter or Chapter 8 (commencing with Section 14200); or

(2) To purchase, lease, order, or arrange for or recommend the purchasing, leasing, or ordering of any goods, facility, service, or merchandise for which payment may be made in whole or in part under this chapter or Chapter 8 (commencing with Section 14200), is punishable upon a first conviction by imprisonment in a county jail for not longer than one year or state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

(c) Subdivisions (a) and (b) shall not apply to the following:

(1) Any amount paid by an employer to an employee, who has a bona fide employment relationship with that employer, for employment with provision of covered items or services.

(2) A discount or other reduction in price obtained by a provider of services or other entity under this chapter or Chapter 8 (commencing with Section 14200), if the reduction in price is properly disclosed and reflected in the costs claimed or charges made by the provider or entity under this chapter or Chapter 8 (commencing with Section 14200). This paragraph shall not apply to consultant pharmaceutical services rendered to nursing facilities nor to all categories of intermediate care facilities for the developmentally disabled.

(3) The practices or transactions between a federally qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code, and any individual or entity shall be permitted only to the extent sanctioned or permitted by federal law.

(d) For purposes of this section, "kickback" means a rebate or anything of value or advantage, present or prospective, or any promise or undertaking to give any rebate or thing of value or advantage, with a corrupt intent to unlawfully influence the person to whom it is given in actions undertaken by that person in his or her public, professional, or official capacity.

(e) The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

SEC. 248. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than six months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself or herself to the provider as a Medi-Cal beneficiary within four months after the month in which the service was rendered, the provider shall be entitled to submit his or her statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary. However, the date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

(b) The director may, where he or she finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) (1) Reimbursement for an original claim, submitted for payment between 6 and 12 months after the month of service, that does not meet any of the exceptions allowing billing after six months as specified in subdivisions (a) and (b), or the exception specified in subdivision (f), shall be reduced as follows:

(A) The amount otherwise payable by Medi-Cal shall be reduced by 25 percent for claims submitted during the seventh through the ninth month after the month of service.

(B) The amount otherwise payable by Medi-Cal shall be reduced by 50 percent for claims submitted during the 10th through the 12th month after the month of service.

(2) The director may establish exceptions through regulations, for claims submitted beyond the one-year billing limitation, to the extent full federal participation is available.

(3) The reductions specified in paragraph (1) shall not apply to a Medi-Cal program for which there is no state General Fund match, including, but not limited to, the Local Educational Agency (LEA) Medi-Cal Billing Option program and the Targeted Case Management (TCM) program.

(d) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(e) No further followup shall be required, after the provider receives acknowledgment of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgment. Within one year from the date of acknowledgment the next level of appeal shall be utilized by the provider.

(f) To the extent permitted by federal law, when a state of emergency has been declared by either the President of the United States or the Governor, the director, in order to ensure continued access to health care services, may remit payment for services without the submission of required documentation, to any provider in good standing under the Medi-Cal program who, due to destruction, loss, or inaccessibility of data as a result of the emergency situation, is unable to submit claims. Emergency payments may be made for a period of up to six months from the date of the emergency declaration. All requests for emergency payment shall include adequate justification for payment, as required by the director, and shall be paid based on the previous claims history of the requesting provider held by the department.

SEC. 249. Section 14123.05 of the Welfare and Institutions Code is amended to read:

14123.05. The department shall develop, in consultation with provider representatives, including, but not limited to, physician, pharmacy, and medical supplies providers, a process that enables a provider to meet and confer with the appropriate department officials within 30 days after the issuance of a letter notifying the provider of a temporary withhold of payments, pursuant to Section 14107.11, or a temporary suspension, pursuant to subdivision (a) of Section 14043.36, for the purpose of presenting and discussing information and evidence that may impact the department's decision to modify or terminate the sanction.

SEC. 250. Section 14166.18 of the Welfare and Institutions Code is amended to read:

14166.18. (a) With respect to each project year, the director shall determine a baseline funding amount for each nondesignated public hospital that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for both the 2004–05 fiscal year and the project

year. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081) or the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each nondesignated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the nondesignated public hospital, or on its behalf by the governmental entity with which it is affiliated.

(c) The aggregate nondesignated public hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b).

(d) With respect to each project year beginning after the 2005–06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163, with respect to inpatient hospital services rendered during the 2004–05 fiscal year, for nondesignated public hospitals that were eligible hospitals under paragraph (3) of subdivision (a) of Section 14105.98 for the project year, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year preceding the project year for which the nondesignated public hospital adjusted baseline funding amount is being calculated for the nondesignated public hospitals described in paragraph (1). The aggregate total revenue for services rendered in the particular preceding fiscal year shall include the payments that are described under paragraphs (1) and (6) of subdivision (a), and all other payments made to nondesignated public hospitals under this article, excluding disproportionate share hospital payments pursuant to Section 14166.16, stabilization funding pursuant to Section 14166.19, and distressed hospital funding pursuant to Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to the amount that results from both of the following:

(i) Aggregating the nondesignated public hospital baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163.

(ii) Subtracting from the amount in clause (i) the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(D) The aggregate nondesignated public hospital adjusted baseline funding amount is the amount determined in subdivision (c), plus the resulting product determined in subparagraph (C).

SEC. 251. Section 16540 of the Welfare and Institutions Code is amended to read:

16540. The California Child Welfare Council is hereby established, which shall serve as an advisory body responsible for improving the collaboration and processes of the multiple agencies and the courts that serve the children and youth in the child welfare and foster care systems. The council shall monitor and report the extent to which child welfare and foster care programs and the courts are responsive to the needs of children in their joint care. The council shall issue advisory reports whenever it deems appropriate, but in any event, no less frequently than annually, to the Governor, the Legislature, the Judicial Council, and the public. A report of the Child Welfare Council shall, at a minimum, include recommendations for all of the following:

(a) Ensuring that all state child welfare, foster care, and judicial funding and services for children, youth, and families is, to the greatest extent possible, coordinated to eliminate fragmentation and duplication of services provided to children or families who would benefit from integrated multiagency services.

(b) Increasing the quality, appropriateness, and effectiveness of program services and judicial processes delivered to children, youth, and families who would benefit from integrated multiagency services to achieve better outcomes for these children, youth, and families.

(c) Promoting consistent program and judicial excellence across counties to the greatest extent possible while recognizing the demographic, geographic, and financial differences among the counties.

(d) Increasing collaboration and coordination between county agencies, state agencies, federal agencies, and the courts.

(e) Ensuring that all state Title IV-E plans, program improvement plans, and court improvement plans demonstrate effective collaboration between public agencies and the courts.

(f) Assisting the Secretary of California Health and Human Services and the chief justice in formulating policies for the effective administration of the child welfare and foster care programs and judicial processes.

(g) Modifying program practices and court processes, rate structures, and other system changes needed to promote and support relative caregivers, family foster parents, therapeutic placements, and other placements for children who cannot remain in the family home.

(h) Developing data- and information-sharing agreements and protocols for the exchange of aggregate data across program and court systems that are providing services to children and families in the child welfare system. These data-sharing agreements shall allow child welfare agencies and the courts to access data concerning the health, mental health, special education, and educational status and progress of children served by county child welfare systems subject to state and federal confidentiality laws and regulations. They shall be developed in tandem with the establishment of judicial case management systems as well as additional or enhanced performance measures described in subdivision (b) of Section 16544.

(i) Developing systematic methods for obtaining policy recommendations from foster youth about the effectiveness and quality of program services and judicial processes, and ensuring that the interests of foster youth are adequately addressed in all policy development.

(j) Implementing legislative enactments in the child welfare and foster care programs and the courts, and reporting to the Legislature on the timeliness and consistency of the implementation.

(k) Monitoring the adequacy of resources necessary for the implementation of existing programs and court processes, and the prioritization of program and judicial responsibilities.

(*l*) Strengthening and increasing the independence and authority of the foster care ombudsperson.

(m) Coordinating available services for former foster youth and improving outreach efforts to those youth and their families.

SEC. 252. Section 16541.5 of the Welfare and Institutions Code is amended to read:

16541.5. The council shall meet no less frequently than each quarter of the state fiscal year and at the call of the cochairs, at a time and location convenient to the public as it may deem appropriate. All meetings of the council shall be open to the public. Members shall serve without compensation, with the exception of foster youth members, who shall be entitled to reimbursement for all actual and necessary expenses incurred in the performance of their duties.

SEC. 253. Section 16542 of the Welfare and Institutions Code is amended to read:

16542. The cochairs may appoint committees composed of council members, experts in specialized fields, foster youth, program stakeholders, state and county child welfare and foster care staff, child advocacy organizations, members of the judiciary, foster care public health nurses, or any combination thereof, to advise the council on any functions of the council and the services provided through the child welfare and foster care programs and the courts. Members of these committees shall receive no compensation from the state for their services, with the exception of foster youth members, who shall be entitled to reimbursement for all actual and necessary expenses incurred in the performance of their duties. The committees may assemble information and make recommendations to the council, but shall not exercise any of the powers vested in the council. The council may seek input from groups and individuals as it deems appropriate, including, but not limited to, advisory committees, the judiciary and child welfare and foster care program stakeholders.

SEC. 254. Section 16545 of the Welfare and Institutions Code is amended to read:

16545. By April 1, 2008, the Judicial Council shall adopt, through rules of court, performance measures designed to complement and promote those measures specified in Section 16544 so that courts are able to measure their performance and track their own progress in improving safety, permanency, timeliness, and well-being of children and to inform decisions about the allocation of court resources. In adopting performance measures, the Judicial Council shall consult with

the council and the secretary. The performance measures shall be based on data that is available from current or planned data collection processes and to the greatest extent possible, shall ensure uniformity of data reporting.

SEC. 255. Section 16809 of the Welfare and Institutions Code is amended to read:

16809. (a) (1) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The governing board shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) The board of supervisors of a county that has contracted with the governing board pursuant to paragraph (1) may also contract with the governing board for the delivery of health care and health-related services to county residents other than under the County Medical Services Program by adopting a resolution to that effect. The governing board shall have responsibilities for the delivery of specified health services to county residents as agreed upon by the governing board and the county. Participation by a county pursuant to this paragraph shall be voluntary, and funds shall be provided solely by the county.

(b) The governing board may contract with the department or any other person or entity to administer the County Medical Services Program.

(1) If the governing board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations as determined by the governing board.

(B) Provisions for payment of expenses of the governing board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993–94 fiscal year contract with counties under the County Medical Services Program.

(E) Provisions for the department to administer the County Medical Services Program pursuant to regulations adopted by the governing board or as otherwise determined by the governing board.

(F) Provisions requiring that the governing board reimburse the state costs of providing administrative support to the County Medical Services

Program in accordance with amounts determined between the governing board and the department.

(2) If the governing board does not contract with the department for administration of the County Medical Services Program, the governing board may contract with the department for specified services to assist in the administration of that program. Any contract with the department under this paragraph shall require that the governing board reimburse the state costs of providing administrative support.

(3) The department shall not be liable for any costs related to decisions of the governing board that are in excess of those set forth in the contract between the department and the governing board.

(c) Each county intending to participate in the County Medical Services Program pursuant to this section shall submit to the governing board a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year in which the county will participate in the County Medical Services Program.

(d) A county participating in the County Medical Services Program pursuant to this section, or a county contracting with the governing board pursuant to paragraph (2) or (3) of subdivision (a), or participating in a pilot project or contracting with the governing board for an alternative product pursuant to Section 16809.4, shall not be relieved of its indigent health care obligation under Section 17000.

(e) (1) The County Medical Services Program Account is established in the County Health Services Fund. The County Medical Services Program Account is continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (n).

(2) The methods and procedures used to deposit funds into the account shall be consistent with the methods used by the program during the 1993–94 fiscal year, unless otherwise determined by the governing board.

(f) Moneys in the program account shall be used by the governing board, or by the department if the department contracts with the governing board for this purpose, to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j) and to pay the governing board expenses and program administrative costs. In addition, moneys in this account may be used to reimburse the department for state costs pursuant to subparagraph (F) of paragraph (1) of subdivision (b).

(g) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, governing board expenses, and program administrative costs.

(h) The governing board shall establish a reserve account for the purpose of depositing funds for the payment of claims and unexpected contingencies. Funds in the reserve account in excess of the amounts the governing board determines necessary for these purposes shall be available for expenditures in years when program expenditures exceed program funds, and to augment the rates, benefits, or eligibility criteria under the program.

(i) (1) Counties shall pay participation fees as established by the governing board and their jurisdictional risk amount in a method that is consistent with that established in the 1993–94 fiscal year.

(2) A county may request, due to financial hardship, that the payments under paragraph (1) be delayed. The request shall be subject to approval by the governing board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account, unless otherwise directed by the governing board.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus the additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01,

2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

(B) For the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the state shall not be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus any additional cost increases for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years.

(C) (i) The governing board shall establish uniform eligibility criteria and benefits among all counties participating in the County Medical Services Program listed in paragraph (2). For counties that are not listed in paragraph (2) and that elect to participate pursuant to paragraph (1) of subdivision (a), the eligibility criteria and benefit structure may vary from those of counties participating pursuant to paragraph (2) of subdivision (a).

(ii) Notwithstanding clause (i), the governing board may establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for benefits under the County Medical Services Program, and may develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program.

(2) For the 1991–92 fiscal year, and each year thereafter, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,150
Amador	620,264
Butte	5,950,593
Calaveras	913,959
Colusa	799,988
Del Norte	781,358
El Dorado	3,535,288
Glenn	787,933
Humboldt	6,883,182
Imperial	6,394,422
Inyo	1,100,257
Kings	2,832,833
Lake	1,022,963
Lassen	687,113
Madera	2,882,147

Marin	7,725,909
Mariposa	435,062
Mendocino	1,654,999
Modoc	469,034
Mono	369,309
Napa	3,062,967
Nevada	1,860,793
Plumas	905,192
San Benito	1,086,011
Shasta	5,361,013
Sierra	135,888
Siskiyou	1,372,034
Solano	6,871,127
Sonoma	13,183,359
Sutter	2,996,118
Tehama	1,912,299
Trinity	611,497
Tuolumne	1,455,320
Yuba	2,395,580

(3) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in subparagraph (A) plus the amount determined pursuant to subparagraph (B), minus the amount specified by the governing board as participation fees.

(A)

Jurisdiction	Amount
Merced	$2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the governing board before a county is permitted to participate in the County Medical Services Program.

(4) The specific amounts and method of apportioning risk to each participating county may be adjusted by the governing board.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from Part 2 (commencing with Section

10100) of Division 2 of the Public Contract Code. Contracts of the department pursuant to this section shall have no force or effect unless they are approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Third-party recoveries for services provided under this section may be pursued.

(n) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(o) Moneys appropriated from the General Fund to meet the state risk, as set forth in subparagraph (A) of paragraph (1) of subdivision (j), shall not be available for those counties electing to disenroll from the County Medical Services Program.

SEC. 256. Section 16809.3 of the Welfare and Institutions Code is amended to read:

16809.3. (a) Beginning in the 1991–92 fiscal year, and in subsequent fiscal years, a county shall pay the amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section 16809.4, to the governing board as a condition of participation in the County Medical Services Program administered pursuant to Section 16809:

Jurisdiction	Amount
Alpine	$ 661
Amador	17,107
Butte	459,610
Calaveras	30,401
Colusa	28,997
Del Norte	39,424
El Dorado	233,492
Glenn	33,989
Humboldt	430,851
Imperial	249,786
Inyo	18,950
Kings	195,053
Lake	150,278
Lassen	17,206
Madera	151,434
Marin	576,233
Mariposa	5,649
Mendocino	247,578

Modoc	9,688
Mono	25,469
Napa	142,767
Nevada	42,051
Plumas	23,796
San Benito	37,018
Shasta	294,369
Sierra	6,183
Siskiyou	48,956
Solano	809,548
Sonoma	718,947
Sutter	188,781
Tehama	79,950
Trinity	8,319
Tuolumne	34,947
Yuba	101,907

(b) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall pay the following amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section 16809.4, to the governing board as a condition of participation in the County Medical Services Program, administered pursuant to Section 16809:

Jurisdiction	Amount
Merced	$488,954
Placer	247,193
San Luis Obispo	358,571
Santa Cruz	678,868
Yolo	532,510

(c) (1) County amounts specified in subdivisions (a) and (b) shall be paid to the governing board in 12 equal monthly payments or as otherwise specified by the governing board. Subject to paragraphs (2) and (3), a county that does not pay the amounts specified in subdivision (a) or (b) may be terminated from participation in the program.

(2) A county may request, due to financial hardship, that payments specified under subdivisions (a) and (b) be delayed. The request shall be subject to the approval of the governing board.

(3) For the 1991–92 fiscal year and subsequent fiscal years, counties that enter the County Medical Services Program shall pay the amount

specified in subdivision (a) or (b), as applicable, on a prorated basis, for the number of contracted months of participation in the County Medical Services Program.

(d) The payments required by subdivision (c) shall not be paid for with funds from the health account of the local health and welfare trust fund established pursuant to Section 17600.10.

SEC. 257. Section 18309 of the Welfare and Institutions Code is amended to read:

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 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 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 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 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.

SEC. 258. Section 18945 of the Welfare and Institutions Code is amended to read:

18945. (a) Noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined in subdivision (b), shall be eligible for public social services under this division, and health care services under

Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code. These services shall discontinue if there is a final administrative denial of a visa application under Section 1101 (a)(15)(T)(i) or (ii), or Section 1101 (a)(15)(U)(i) or (ii), of Title 8 of the United States Code. For trafficking victims on behalf of whom law enforcement officials have not yet filed for continued presence or who have not yet filed an application for a visa, benefits issued pursuant to this subdivision shall be available for up to one year, and shall continue after that date only if an application for continued presence, or an application for a visa, is filed within the one-year period. Benefits and services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

(b) For purposes of this section, victims of trafficking, domestic violence, and other serious crimes shall be defined to include both of the following:

(1) Noncitizen victims of a severe form of trafficking in persons, who have been subjected to an act or practice described in Section 7102 (8) or (9) of Title 22 of the United States Code or Section 236.1 of the Penal Code, and who have filed an I-914 application for T Nonimmigrant status with the appropriate federal agency, are preparing to file an application for status under Section 1101 (a)(15)(T)(i) or (ii) of Title 8 of the United States Code, or otherwise are taking steps to meet the conditions for federal benefits eligibility under Section 7105 of Title 22 of the United States Code.

(2) Individuals who have filed a formal application with the appropriate federal agency for status under Section 1101 (a)(15)(U)(i) or (ii) of Title 8 of the United States Code.

(c) After one year from the date of application for public social services, noncitizen victims of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), shall be ineligible for state-funded services if a visa application has not been filed until under Section 1101 (a)(15)(T)(i) or (ii) of Title 8 of the United States Code.

(d) A noncitizen victim of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), who is issued a visa shall be removed from the state-funded program and provided federally funded public social services benefits under the provisions of Section 1522 of Title 8 of the United States Code, or another federal program for which the noncitizen victim may be eligible.

(e) For purposes of this section, Section 13283 and Section 14005.2:

(1) In determining whether an applicant for public social services has been a victim of a severe form of human trafficking, as defined in Section

7102 (8) or (9) of Title 22 of the United States Code, or Section 236.1 of the Penal Code, the state or local agency shall consider all relevant and credible evidence. A sworn statement by a victim, or a representative if the victim is not able to competently swear, shall be sufficient if at least one item of additional evidence is also provided, including, but not limited to, any of the following:

(A) Police, government agency, or court records or files.

(B) News articles.

(C) Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime.

(D) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

(E) Physical evidence.

(F) A copy of a completed visa application.

(G) Written notice from the federal agency of receipt of the visa application.

(2) If the victim cannot provide additional evidence, then the sworn statement shall be sufficient if the county or state agency makes a determination documented in the case file that the applicant is credible.

SEC. 259. Section 18951 of the Welfare and Institutions Code is amended to read:

18951. As used in this chapter:

(a) "Child" means an individual under the age of 18 years.

(b) "Child services" means services for or on behalf of children, and includes the following:

(1) Protective services.

(2) Caretaker services.

(3) Day care services, including dropoff care.

(4) Homemaker services or family aides.

(5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child, which shall include, but not be limited to, the following:

(1) Access to voluntary placement, long or short term.

(2) Counseling services before and after a crisis.

(3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

(1) Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in child abuse prevention.

(5) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition that results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence.

(f) "Parent" means any person who exercises care, custody, and control of the child as established by law.

SEC. 260. Section 17 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), as amended by Chapter 218 of the Statutes of 2006, is amended to read:

Sec. 17. (a) The board of directors, on or before the first meeting of the Board of Supervisors of Orange County in August of each year, shall furnish the Board of Supervisors and the Auditor of Orange County with an estimate in writing of the amount of money needed for the initiated or authorized purposes of the district for the current fiscal year, including the purchase of supplemental water for the replenishment of groundwater supplies of the district and amounts necessary for the payment of the principal of, and interest on, any bonded debt of the district as it becomes due.

(b) (1) The amount of the general assessment levied during any year, excluding the amounts necessary for the payment of the principal of, and interest on, any bonded debt of the district, shall not exceed twenty

cents ($0.20) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district, excluding personal property, according to the last assessment rolls of Orange County.

(2) A tax rate in excess of eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district, excluding personal property, according to the last assessment rolls of Orange County, shall not be established unless authorized by an affirmative vote of eight of the members of the Board of Directors of the Orange County Water District.

(3) The general assessments provided for in this section shall not exceed eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of mineral rights, where the mineral rights are assessed separately from the land.

(4) All funds derived from a general assessment in excess of those derived from eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district of any general assessment shall be deposited and applied to the water reserve fund.

(c) The amounts deposited and applied to the water reserve fund shall be used solely and exclusively for all of the following purposes:

(1) The purchase of supplemental water for the replenishment of the groundwater supplies of the district.

(2) Acquiring, constructing or developing intrusion prevention projects, spreading grounds or basins, wastewater reclamation and water salvage projects, canals, conduits, pipelines, wells, or other works useful or necessary for the purposes of the district and to carry out the provisions of this section.

(3) Acquiring any real or personal property or rights or privilege therein useful or necessary for the foregoing projects or works or for the purposes of the district and to carry out the provisions of this section.

(d) In addition to the purchase of supplemental water for the groundwater supplies of the district from the water reserve fund and from the replenishment fund, the board of directors may purchase water for the replenishment of the groundwater supplies of the district from the general fund upon the affirmative vote of at least eight members of the board of directors.

SEC. 261. Section 1 of Chapter 34 of the Statutes of 2006 is amended to read:

SECTION 1. (a) The sum of five hundred million dollars ($500,000,000) is hereby appropriated from the General Fund to the Department of Water Resources for levee evaluation and repair, and related work, and flood control system improvements.

(b) Notwithstanding any other provision of law, including Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the

Government Code, levee repairs for those critical levee erosion sites identified under Governor's Executive Order S-01-06 shall be made with funds appropriated pursuant to this section.

SEC. 262. Section 1 of Chapter 323 of the Statutes of 2006 is amended to read:

SECTION 1. The Legislature hereby finds and declares each of the following:

(a) The spread of certain harmful, nonnative species of plants causes enormous damage to the environment and economy of California.

(b) The destructive impact of invasive and often poisonous noxious weeds is profound, affecting California's cropland, rangeland, forests, parks, and wild lands.

(c) Enormous sums of private, state, and federal resources are lost through decreased land productivity, degradation of wildlife habitat, and outright destruction of crops, livestock, wetlands, waterways, watersheds, and recreational areas caused by noxious and invasive weeds.

(d) The estimated lost crop and forage productivity caused by invasive and noxious weeds is $33 billion nationwide, a large proportion of which is attributable to California.

(e) Noxious and invasive weeds have destroyed large portions of riparian habitat along creeks, streams, rivers, lakes, reservoirs, and other bodies of freshwater in California, damaging the integrity of riparian system by altering erosion, sedimentation, flooding, and fire.

(f) Proper noxious and invasive weed management in riparian habitats is critical to sustaining California's freshwater supply.

(g) The invasive weed Arundo donax (giant reed) has established large colonies across the state, most notably in southern California, where in one 10,000-acre area, the weed has been estimated to have consumed more than 30,000 acre-feet of water each year, or enough water to meet the yearly freshwater needs of 150,000 persons. Over one million dollars ($1,000,000) is spent annually on controlling Arundo in southern California.

(h) The invasive weed yellow star thistle has infested more than 20,000,000 acres, roughly 22 percent of the state, and is quickly expanding in the Sierra and into the Coastal Range, making it the most common invasive plant in California, choking out native plants and killing horses who eat its poisonous early season growth. Yellow star thistle consumes extra groundwater estimated to cost sixteen million dollars ($16,000,000) to seventy-five million dollars ($75,000,000) each year in the Sacramento River watershed alone.

(i) Tamarisk (saltcedar) trees, found along waterways throughout the arid west, including southern California, are estimated to cost between

$133 billion and $292 billion nationally each year in lost water, flood control, hydropower, wildlife habitat, and recreation.

(j) California has a noxious weed management program for the purpose of managing and eradicating noxious weeds through specified local weed management areas. These programs to prevent, control, manage, and eradicate nonnative and noxious weeds have emphasized information sharing, education, and public awareness and participation as critical to the success of prevention, control, and eradication efforts.

(k) Local weed management groups have benefited greatly from the commitment of the state to fund weed eradication, and these weed management groups have been successful in identifying and eradicating invasive and noxious weed species in their regions.

(*l*) The California Noxious and Invasive Weed Action Plan, September 2005, calls for expanding funding for local weed management groups.

SEC. 263. Section 1 of Chapter 710 of the Statutes of 2006 is amended to read:

SECTION 1. The Legislature finds and declares all of the following:

(a) Tamarisk is a small tree or large shrub that was imported from Eastern Europe in the 1800s for use as windbreaks and erosion control.

(b) Tamarisk is spreading across the west, including covering hundreds of thousands of acres in the Colorado River Basin, almost entirely along waterways.

(c) Tamarisk easily outcompetes native habitat, such as willows and cottonwoods, and has very little habitat value compared to native vegetation.

(d) Because of its delicate and expansive leaf structure, tamarisk on a per-acre basis takes up and evaporates substantially more water than native vegetation.

(e) Colorado River flows have been very low for the last six years because of increasing human uses and very low rainfall, and because tamarisk is taking up significantly more water than the native vegetation that it replaces.

(f) If low river flows continue, dwindling reservoir storage will be insufficient to continue historical levels of diversions and diversions will have to be curtailed, with substantial impacts to the economies of the seven states in the Colorado River watershed.

(g) Environmental mitigation and restoration programs, such as the lower Colorado River Multi-Species Conservation Program and environmental mitigation measures for the Quantification Settlement Agreement on the lower Colorado River, may include projects that will replace invasive exotic vegetation with native vegetation. The state supports the eradication of invasive species by the Colorado River Multi-Species Conservation Program and other programs and encourages

cooperation with these programs to increase the available native wetland and riparian vegetation in the Colorado River watershed.

(h) The state seeks to encourage the federal government, basin states, and water agencies to develop a program to control or eradicate tamarisk within each state's jurisdiction.

(i) Controlling tamarisk in the Colorado River watershed entails a large and costly task, but if it is not undertaken, there will be significant economic and environmental consequences for California and the other basin states.

SEC. 264. Any section of any act enacted by the Legislature during the 2007 calendar year that takes effect on or before January 1, 2008, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2007 calendar year and takes effect on or before January 1, 2008, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 131

An act to amend Section 25503.9 of, and to add Section 24045.18 to, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 24045.18 is added to the Business and Professions Code, to read:

24045.18. Notwithstanding any other provision of this division, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine may assist a nonprofit organization holding a temporary wine license in conducting a winetasting. The privilege granted under this section for a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine shall apply only to wine produced for the donating licensee that is labeled with a

brand owned exclusively by the donating licensee and shall include in the tasting only wine donated by the licensee to the event.

SEC. 2. Section 25503.9 of the Business and Professions Code is amended to read:

25503.9. Nothing in this division prohibits a winegrower or a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine from giving or selling wine, a beer manufacturer from giving or selling beer, a distilled spirits manufacturer or a distilled spirits manufacturer's agent from giving or selling distilled spirits, or a licensed importer from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(a) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(b) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(c) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and is defined as a tax exempt organization under Section 23701a, 23701d, 23701e, 23701f, or 23701r of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, or licensed importer pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that laws regulating alcoholic beverages are enacted at the earliest possible time, thereby protecting public health, it is necessary that this act take effect immediately.

CHAPTER 132

An act to amend Section 1463.010 of, to add Section 1463.02 to, and to repeal and amend Section 1463.007 of, the Penal Code, and to amend Section 19280 of the Revenue and Taxation Code, relating to courts.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1463.007 of the Penal Code, as amended by Section 52 of Chapter 850 of the Statutes of 1997, is repealed.

SEC. 2. Section 1463.007 of the Penal Code, as amended by Section 2 of Chapter 380 of the Statutes of 2004, is amended to read:

1463.007. Notwithstanding any other provision of law, any county or court that implements or has implemented a comprehensive program to identify and collect delinquent fees, fines, forfeitures, penalties, and assessments, including, but not limited to, public defender fees, with or without a warrant having been issued against the alleged violator, if the base fees, fines, forfeitures, penalties, and assessments are delinquent, may deduct and deposit in the county treasury or in the trial court operations fund the cost of operating that program, excluding capital expenditures, from any revenues collected thereby prior to making any distribution of revenues to other governmental entities required by any other provision of law. Any county or court may establish a minimum base fee, fine, forfeiture, penalty, or assessment amount for inclusion in the program. This section applies to costs incurred by a court or a county on or after June 30, 1997, and prior to the implementation of a time payments agreement, and shall supersede any prior law to the contrary. This section does not apply to a defendant who is paying fees, fines, forfeitures, penalties, or assessments through time payments, unless he or she is delinquent in making payments according to the agreed-upon payment schedule. For purposes of this section, a comprehensive

collection program is a separate and distinct revenue collection activity and shall include at least 10 of the following components:

(a) Monthly bill or account statements to all debtors.

(b) Telephone contact with delinquent debtors to apprise them of their failure to meet payment obligations.

(c) Issuance of warning letters to advise delinquent debtors of an outstanding obligation.

(d) Requests for credit reports to assist in locating delinquent debtors.

(e) Access to Employment Development Department employment and wage information.

(f) The generation of monthly delinquent reports.

(g) Participation in the Franchise Tax Board's Interagency Intercept Collections Program.

(h) The use of Department of Motor Vehicle information to locate delinquent debtors.

(i) The use of wage and bank account garnishments.

(j) The imposition of liens on real property and proceeds from the sale of real property held by a title company.

(k) The filing of a claim or the filing of objections to the inclusion of outstanding fines and forfeitures in bankruptcy proceedings.

(*l*) Coordination with the probation department to locate debtors who may be on formal or informal probation.

(m) The initiation of driver's license suspension actions where appropriate.

(n) The capability to accept credit card payments.

(o) Participation in the Franchise Tax Board's Court-Ordered Debt Collections Program.

(p) Contracting with one or more private debt collectors.

(q) The use of local, regional, state, or national skip tracing or locator resources or services to locate delinquent debtors.

SEC. 3. Section 1463.010 of the Penal Code is amended to read:

1463.010. The uniform imposition and enforcement of court-ordered debts are recognized as an important element of California's judicial system. Prompt, efficient, and effective imposition and collection of court-ordered fees, fines, forfeitures, penalties, restitution, and assessments ensure the appropriate respect for court orders. To provide for this prompt, efficient, and effective collection:

(a) The Judicial Council shall adopt guidelines for a comprehensive program concerning the collection of moneys owed for fees, fines, forfeitures, penalties, and assessments imposed by court order. As part of its guidelines, the Judicial Council may establish standard agreements for entities to provide collection services. As part of its guidelines, the Judicial Council shall include provisions that promote competition by

and between entities in providing collection services to courts and counties. The Judicial Council may delegate to the Administrative Director of the Courts the implementation of the aspects of this program to be carried out at the state level.

(b) The courts and counties shall maintain the collection program that was in place on January 1, 1996, unless otherwise agreed to in writing by the court and county. The program may wholly or partially be staffed and operated within the court itself, may be wholly or partially staffed and operated by the county, or may be wholly or partially contracted with a third party. In carrying out this collection program, each superior court and county shall develop a cooperative plan to implement the Judicial Council guidelines. In the event that a court and a county are unwilling or unable to enter into a cooperative plan pursuant to this section, prior to the arbitration procedures required by subdivision (e) of Section 1214.1, the court or the county may request the continuation of negotiations with mediation assistance as mutually agreed upon and provided by the Administrative Director of the Courts and the California Association of Counties.

(c) The Judicial Council shall develop performance measures and benchmarks to review the effectiveness of the cooperative superior court and county collection programs operating pursuant to this section. Each superior court and county shall jointly report to the Judicial Council, as provided by the Judicial Council, information requested in a reporting template on or before September 1, 2009, and annually thereafter. The Judicial Council shall report to the Legislature on December 31, 2009, and annually thereafter, on all of the following:

(1) The extent to which each court or county is following best practices for its collection program.

(2) The performance of each collection program.

(3) Any changes necessary to improve performance of collection programs statewide.

(d) The Judicial Council may, when the efficiency and effectiveness of the collection process may be improved, facilitate a joint collection program between superior courts, between counties, or between superior courts and counties.

(e) The Judicial Council may establish, by court rule, a program providing for the suspension and nonrenewal of a business and professional license if the holder of the license has unpaid fees, fines, forfeitures, penalties, and assessments imposed upon them under a court order. The Judicial Council may provide that some or all of the superior courts or counties participate in the program. Any program established by the Judicial Council shall ensure that the licensee receives adequate and appropriate notice of the proposed suspension or nonrenewal of his

or her license and has an opportunity to contest the suspension or nonrenewal. The opportunity to contest may not require a court hearing.

(f) Notwithstanding any other provision of law, the Judicial Council, after consultation with the Franchise Tax Board with respect to collections under Section 19280 of the Revenue and Taxation Code, may provide for an amnesty program involving the collection of outstanding fees, fines, forfeitures, penalties, and assessments, applicable either statewide or within one or more counties. The amnesty program shall provide that some or all of the interest or collections costs imposed on outstanding fees, fines, forfeitures, penalties, and assessments may be waived if the remaining amounts due are paid within the amnesty period.

SEC. 4. Section 1463.02 is added to the Penal Code, to read:

1463.02. (a) On or after July 1, 2009, the Judicial Council shall establish a task force to evaluate criminal and traffic-related court-ordered debts imposed against adult and juvenile offenders. The task force shall be comprised of the following members:

(1) Two members appointed by the California State Association of Counties.

(2) Two members appointed by the League of California Cities.

(3) Two court executives, two judges, and two Administrative Office of the Courts employees appointed by the Judicial Council.

(4) One member appointed by the Controller.

(5) One member appointed by the Franchise Tax Board.

(6) One member appointed by the California Victim Compensation and Government Claims Board.

(7) One member appointed by the Department of Corrections and Rehabilitation.

(8) One member appointed by the Department of Finance.

(9) One member appointed by each house of the Legislature.

(b) The Judicial Council shall designate a chairperson for the task force. The task force shall, among other duties, do all of the following:

(1) Identify all criminal and traffic-related court-ordered fees, fines, forfeitures, penalties, and assessments imposed under law.

(2) Identify the distribution of revenue derived from those debts.

(3) Consult with state and local entities that would be affected by a simplification and consolidation of criminal and traffic-related court-ordered debts.

(4) Evaluate and make recommendations to the Judicial Council for consolidating and simplifying the imposition of criminal and traffic-related court-ordered debts and the distribution of the revenue derived from those debts with the goal of improving the process for those entities that benefit from the revenues, but with no intention of

redistributing funds in a way that will have a detrimental effect on those entities.

(c) The task force also shall document recent annual revenues from the various penalty assessments and surcharges and, to the extent feasible, evaluate the extent to which the amount of each penalty assessment and surcharge impacts total annual revenues and the actual amounts assessed.

(d) The task force also shall evaluate and make recommendations to the Judicial Council on or before June 30, 2010, regarding the priority in which court-ordered debts should be satisfied and the use of comprehensive collection programs authorized pursuant to Section 1463.007, including associated cost-recovery practices.

SEC. 5. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior court of the State of California upon a person or any other entity that are due and payable in an amount totaling no less than one hundred dollars ($100), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the superior court, the county, or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board.

(2) For purposes of this subdivision:

(A) The amounts referred by the superior court, the county, or state under this section may include any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

(C) The Franchise Tax Board shall establish criteria for referral, which shall include setting forth a minimum dollar amount subject to referral and collection.

(b) The Franchise Tax Board, in conjunction with the Judicial Council, shall seek whatever additional resources are needed to accept referrals from all 58 counties or superior courts.

(c) Upon written notice to the debtor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) and any interest thereon, including any interest on the amount referred under subdivision (a) that accrued prior to the date of referral, shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(d) (1) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this article in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with this article or is not relevant to this article.

(2) Any information, information sources, or enforcement remedies and capabilities available to the court or the state referring to the amount due described in subdivision (a), shall be available to the Franchise Tax Board to be used in conjunction with, or independent of, the information, information sources, or remedies and capabilities available to the Franchise Tax Board for purposes of administering Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(e) The activities required to implement and administer this part shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(f) For amounts referred for collection under subdivision (a), interest shall accrue at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521. When notice of the amount due includes interest and is mailed to the debtor and the amount is paid within 15 days after the date of notice, interest shall not be imposed for the period after the date of notice.

(g) In no event shall a collection under this article be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

CHAPTER 133

An act to amend Section 44350 of the Education Code, relating to teacher credentialing.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 44350 of the Education Code is amended to read:

44350. (a) Each credential issued shall contain its date of expiration, be issued on a form prescribed by the commission, and bear the signatures of the executive director and the chair of the commission or their facsimile signatures.

(b) In order to ensure the timely processing of an application for a credential, either electronically or by printed copy, the commission shall process an application within 50 business days of receipt.

(c) A school district, county office of education, nonpublic school, charter school, or institution of higher education submitting an application for a credential, certificate, permit, or other document shall submit the application to the commission not more than three months after the issuance date of the document requested.

(d) The processing time set forth in subdivision (b) does not apply to an application subject to a fitness review by the commission pursuant to Article 3 (commencing with Section 44240) of Chapter 2, or an application subject to a fitness review based on allegations of unfitness pursuant to Article 1 (commencing with Section 44420) of Chapter 3.

CHAPTER 134

An act to amend Section 1763 of, and to amend and repeal Section 1764.1 of, the Insurance Code, relating to nonadmitted insurers.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1763 of the Insurance Code is amended to read:

1763. (a) A surplus line broker may solicit and place insurance, other than as excepted in Section 1761, with nonadmitted insurers only if that insurance can not be procured from insurers admitted for the particular class or classes of insurance and that actually write the particular type of insurance in this state. Each surplus line broker shall be responsible to ensure that a diligent search is made among insurers that are admitted to transact and are actually writing the particular type of insurance in this state before procuring the insurance from a nonadmitted insurer. Each surplus line broker shall file with the commissioner or his or her designee, within 60 days of placing any insurance with a nonadmitted insurer, a written report, that shall be kept confidential, regarding the insurance. This report shall include the name and address of the insured, the identity of the insurer or insurers, a description of the subject and location of the risk, the amount of premium charged for the insurance, a copy of the declarations page of the policy or a copy of the surplus line broker's certificate or binder evidencing the placement of insurance, and other pertinent information that the commissioner may reasonably require. In addition, each surplus line broker shall file a standardized form to be prescribed by the commissioner setting forth the diligent efforts to place the coverage with admitted insurers and the results of these efforts. The form shall be signed by a person licensed under this code who has made the diligent search required by this section or who supervised an unlicensed person or persons who actually conducted the search. The insurance shall not be placed with a nonadmitted insurer for the purpose of procuring a rate lower than the lowest rate that will be accepted by any admitted insurer except as provided by subdivision (c). The commissioner may make and publish reasonable rules and regulations, consistent with this chapter, in respect to transactions governed thereby and the basis or bases for his or her determinations hereunder.

(b) It shall be prima facie evidence that a diligent search among admitted insurers has been made if the standardized form filed as required by subdivision (a) establishes that three admitted insurers that actually write the particular type of insurance in this state have declined the risk, or that fewer than three admitted insurers actually write the particular type of insurance. The commissioner, or his or her designee, may review the form for the accuracy of the information provided on it, including, but not limited to, whether the listed insurers actually write that type of insurance, and whether the three insurers declined the risk. The commissioner may take disciplinary action against the person signing

the form for any misrepresentation made in the form due to the negligence of or the result of an intentional act by that person or the person or persons who actually conducted the search. Those actions may include any action authorized to be taken against a licensed person by this code. Nothing in this subdivision shall preclude the commissioner or his or her designee from directing the surplus line broker to conduct a further or additional search among admitted insurers for similar placements in the future.

(c) It shall be conclusively presumed that insurance is placed in violation of this section if the insurance is actually placed with a nonadmitted insurer at a lower rate of premium or lower premium than the lowest rate of premium or the lowest premium that could be obtained from an admitted insurer unless, at the time the insurance attaches, there is filed with the commissioner a statement describing the insurance, specifying the rate and the nearest procurable rates from admitted insurers. The statement shall include an explanation of the reasons that the insurance must be placed with a nonadmitted insurer even though it is available from an admitted insurer. Unless the commissioner, or his or her designee, within five days after that filing notifies the filing broker that in his or her opinion the placing of the insurance constitutes a violation of this section, the broker may thereafter maintain in effect that insurance. If within that five-day period the commissioner notifies the surplus line broker that the insurance is in violation of this section and orders the broker to effect termination of that insurance within 10 days from the notice, and the broker fails or refuses to effect that termination, that failure or refusal is a violation of this section.

(d) Statements filed under this section are not subject to public inspection unless the commissioner determines that the public interest or the welfare of the filing broker requires that any statement be made public.

(e) For purposes of this section, "type of insurance" means the hazard or combination of hazards covered by a contract of insurance.

(f) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

(g) This section does not apply to the extension of coverage by a nonadmitted insurer, of or for the same risks, and to the same insured under an existing surplus lines policy. Such an extension may not exceed 90 days in the aggregate during any 12-month period. The extension may not include a change in coverage, terms, and conditions, or limits.

Any additional premium charged for the extension shall be determined pro rata, based on the same rate of premium as the existing surplus lines policy.

SEC. 2. Section 1764.1 of the Insurance Code, as amended by Section 1 of Chapter 95 of the Statutes of 2004, is amended to read:

1764.1. (a) (1) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760, and surplus line broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus line broker, shall be responsible to ensure that, at the time of accepting an application for any insurance policy, other than a renewal of that policy, issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. In fulfillment of this responsibility, the nonadmitted insurer and the surplus line broker may rely, if it is reasonable under all the circumstances to do so, on the disclosure statement received from any licensee involved in the transaction as prima facie evidence that the disclosure statement and appropriate signature from the applicant have been obtained. The surplus line broker shall maintain a copy of the signed disclosure statement in his or her records for a period of at least five years. These records shall be made available to the commissioner and the insured upon request. This disclosure shall be signed by the applicant, and is not subject to any limited power of attorney agreement between the applicant and an agent or broker, or a surplus line broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer and every certificate evidencing the placement of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(2) In any case where the applicant has not received and completed the signed disclosure form required by this section, he or she may cancel the insurance so placed. The cancellation shall be on a pro rata basis as to premium, and the applicant shall be entitled to the return of any broker's fees charged for the placement.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a), and shall be printed in English and in the language principally used by the surplus line broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:

"NOTICE:

1. THE INSURANCE POLICY THAT YOU [HAVE PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE SURPLUS LINE INSURERS APPROVED BY THE INSURANCE COMMISSIONER. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.

5. FOR ADDITIONAL INFORMATION ABOUT THE INSURER YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: ____.

6. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU."

(c) When a contract is issued to an industrial insured neither the nonadmitted insurer nor the surplus line broker is required to provide

the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured's signature. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured. The producer shall insert the current toll-free telephone number of the Department of Insurance as provided in paragraph 4 of the notice.

(1) An industrial insured is an insured:

(A) Which employs at least 25 employees on average during the prior 12 months; and

(B) Which has aggregate annual premiums for insurance for all risks other than workers' compensation and health coverage totaling no less than twenty-five thousand dollars ($25,000); or

(C) Which obtains insurance through the services of a full-time employee acting as an insurance manager or a continuously retained insurance consultant. A "continuously retained insurance consultant" does not include: (i) Any agent or broker through whom the insurance is being placed, (ii) any subagent or subproducer involved in the transaction, or (iii) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (i) and (ii).

(2) The surplus line broker shall be responsible to ensure that the applicant is an industrial insured. A surplus line broker who reasonably relies on information provided in good faith by the applicant, whether directly or through the producer, shall be deemed to be in compliance with this requirement.

(d) For purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) Where the insurance transaction is not conducted at an in-person, face-to-face meeting, the applicant's signature on the disclosure form may be transmitted by the applicant to the agent or broker via facsimile or comparable electronic transmittal.

(2) In the case of commercial lines coverage, or personal insurance coverage subject to Section 675 and any umbrella coverage associated therewith, where an applicant requires that insurance coverage be bound immediately, either because existing coverage will lapse within two business days of the time the insurance is bound or because the applicant is required to have coverage in place within two business days, and the applicant cannot meet in person with the agent or broker to sign the disclosure form, the agent or broker may obtain the signature of the applicant within five days of binding coverage, provided that the

applicant may cancel the insurance so placed within five days of receiving the disclosure form from the agent or broker. The cancellation shall be on a pro rata basis, and the applicant shall be entitled to the rescission or return of any broker's fees charged for the placement. When a policy is canceled, the broker shall inform the applicant that the broker fee must be returned and that the premium must be prorated.

(e) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 3. Section 1764.1 of the Insurance Code, as added by Section 2 of Chapter 95 of the Statutes of 2004, is repealed.

CHAPTER 135

An act to amend Sections 104420, 104430, 104435, and 104455 of, and to repeal Section 104425 of, the Health and Safety Code, relating to tobacco use programs.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 104420 of the Health and Safety Code is amended to read:

104420. The State Department of Education shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

(a) Provide a planning and technical assistance program to carry out its responsibilities under this article.

(b) Provide guidelines for schools, school districts, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall:

(1) Require the applicant agency to select one or more model program designs and shall permit the applicant to modify the model program designs to take special local needs and conditions into account.

(2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate and a method to determine to what extent goals have been achieved.

(3) Require plan submissions to include a staffing configuration and a budget setting forth use and distribution of funds in a clear and detailed manner.

(c) Prepare model program designs and information for schools, school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost effective. The State Department of Education shall consult with the department, and school districts with existing antitobacco programs in the preparation of model program designs and information.

(d) Provide technical assistance for schools, school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention that shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the department and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.

(e) Monitor the implementation of programs that it has approved under this article to ensure successful implementation.

(f) Prepare guidelines within 180 days of the effective date of this article for a school-based program of outreach, education, intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.

(g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.

(h) Train the tobacco use prevention coordinators of county offices of education so that they are:

(1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.

(2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.

(3) Able to provide effective technical assistance to schools and school districts.

(i) Establish a tobacco-free school recognition awards program.

(j) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, and school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.

(k) (1) Develop, in coordination with the county offices of education, and administer a competitive grant program for school-based, antitobacco education programs and tobacco use intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. Grants shall be awarded, after consultation with local lead agencies, the committee, and representatives of nonprofit organizations dedicated to the reduction of tobacco-associated disease, to school districts and county offices of education for all pupils in grades 6 to 12, inclusive, that comply with the requirements of paragraphs (2) and, if applicable, (3).

(2) Every school district and county office of education that receives a grant pursuant to this section shall provide tobacco-use prevention instruction that addresses all of the following essential topics:

(A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.

(B) Reasons that adolescents say they smoke or use tobacco.

(C) Peer norms and social influences that promote tobacco use.

(D) Refusal skills for resisting social influences that promote tobacco use.

(3) Every school district and county office of education that receives a grant pursuant to this section for pupils in grades 7 to 12, inclusive, shall provide tobacco-use intervention and cessation activities targeted for pupils in high risk groups.

(4) The State Department of Education shall develop criteria and standards for the allocation of grant awards that consider the need to balance rural, suburban, and urban projects. In addition, the State Department of Education shall give priority to applicants and programs that do all of the following:

(A) Target current smokers and pupils most at risk for beginning to use tobacco.

(B) Offer or refer pupils to cessation classes for current smokers.

(C) Utilize existing antismoking resources, including local antismoking efforts by local lead agencies and competitive grant recipients.

(D) Design the project to coordinate with other community services, including, but not limited to, local health agencies, voluntary health organizations, and parent organizations.

(E) Design the project to use and develop existing services and resources.

(F) Demonstrate an understanding of the role that the environment and community norms play in influencing tobacco use.

(5) Available funds shall determine grant award amounts.

(*l*) Allocate funds to county offices of education to provide technical assistance and leadership for tobacco use prevention, intervention, and cessation programs. The funds shall be allocated to all participating county offices of education at a minimum amount of thirty-seven thousand five hundred dollars ($37,500). If funds appropriated for purposes of allocating at least thirty-seven thousand five hundred dollars ($37,500) to all participating county offices of education are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education ensuring that all participating county offices of education receive an equal minimum level of funding of thirty-seven thousand five hundred dollars ($37,500). If funds are sufficient to provide all participating county offices of education a minimum of thirty-seven thousand five hundred dollars ($37,500), the remaining funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to the county superintendent of schools within the county as certified by the Superintendent of Public Instruction:

(1) For counties with over 550,000 units of average daily attendance, thirty cents ($0.30) per average daily attendance.

(2) For counties with more than 100,000 and less than 550,000 units of average daily attendance, sixty-five cents ($0.65) per average daily attendance.

(3) For counties with more than 50,000 and less than 100,000 units of average daily attendance, ninety cents ($0.90) per average daily attendance.

(4) For counties with more than 37,500 and less than 50,000 units of average daily attendance, one dollar ($1) per average daily attendance.

(5) For counties with less than 37,500 units of average daily attendance, thirty-seven thousand five hundred dollars ($37,500).

(m) Allocate funds appropriated by the act adding this subdivision for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year.

(n) (1) Provide that all school districts and county offices of education that receive funding under subdivision (m) make reasonable progress toward providing a tobacco-free environment in school facilities for pupils and employees.

(2) All school districts and county offices of education that receive funding pursuant to paragraph (1) shall adopt and enforce a tobacco-free campus policy no later than July of each fiscal year. The policy shall prohibit the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, pupils, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property. Information about smoking cessation support programs shall be made available and encouraged for pupils and staff. Any school district or county office of education that does not have a tobacco-free district policy implemented by July 1, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund for that fiscal year.

SEC. 2. Section 104425 of the Health and Safety Code is repealed.

SEC. 3. Section 104430 of the Health and Safety Code is amended to read:

104430. (a) The State Department of Education shall make available funds appropriated to it from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund for the implementation of Section 104420 according to the following schedule:

(1) (A) Not less than two-thirds of that amount shall be awarded to local educational agencies. Funds allocated pursuant to paragraphs (2) and (3) shall not be considered funds for distribution to local educational agencies.

(B) Not less than two hundred thousand dollars ($200,000) of the amount subject to subparagraph (A) shall be made available for proportionate awards to applicant education centers pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code, for tobacco use prevention projects.

(2) Not less than two hundred thousand dollars ($200,000) of the amount awarded pursuant to Section 104420 shall be used for the support of statewide program evaluation.

(3) Not more than nine hundred thousand dollars ($900,000) of the amount awarded pursuant to Section 104420 shall be awarded as grants for technical assistance, implementation strategies, and regional coordinating activities related to tobacco use prevention pursuant to subdivision (*l*) of Section 104420.

(b) Any amount that exceeds the amounts specified in subdivision (a) shall be allocated for competitive grants pursuant to subdivision (*l*) of Section 104420.

(c) On and after January 1, 1992, funding to which this section applies shall be made available only upon a determination by the Legislative

Analyst and the Tobacco Education Oversight Committee, in the evaluation required by subdivision (c) of Section 104375, indicating that the tobacco use prevention program meets the purpose of this article.

SEC. 4. Section 104435 of the Health and Safety Code is amended to read:

104435. County offices of education that receive funds pursuant to subdivision (*l*) of Section 104420 shall do all of the following:

(a) Provide technical assistance and training to school districts and consortia of school districts regarding planning and preparation of antitobacco programs plans pursuant to State Department of Education guidelines.

(b) Provide for appropriate coordination between school districts programs and local antitobacco use programs funded by the local lead agency.

(c) Participate in the review and scoring of applications submitted by school districts for grant awards made pursuant to Section 104420.

(d) Participate in the monitoring and technical assistance review process for school districts and county offices of education pursuant to Section 104455.

SEC. 5. Section 104455 of the Health and Safety Code is amended to read:

104455. The State Department of Education shall monitor and ensure implementation of district and county offices of education tobacco-free policies and tobacco-use prevention education programs in districts receiving funding from the Cigarette and Tobacco Products Surtax Fund through procedures determined by the Superintendent of Public Instruction after consultations with the committee.

SEC. 6. This act shall become operative on July 1, 2009.

CHAPTER 136

An act to add Section 398 to the Penal Code, relating to animals.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 398 is added to the Penal Code, to read:

398. (a) Whenever a person owning or having custody or control of an animal, knows, or has reason to know, that the animal bit another person, he or she shall, as soon as is practicable, but no later than 48

hours thereafter, provide the other person with his or her name, address, telephone number, and the name and license tag number of the animal who bit the other person. If the person with custody or control of the animal at the time the bite occurs is a minor, he or she shall instead provide identification or contact information of an adult owner or responsible party. If the animal is required by law to be vaccinated against rabies, the person owning or having custody or control of the animal shall, within 48 hours of the bite, provide the other person with information regarding the status of the animal's vaccinations. Violation of this section is an infraction punishable by a fine of not more than one hundred dollars ($100).

(b) For purposes of this section, it is necessary for the skin of the person be broken or punctured by the animal for the contact to be classified as a bite.

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 137

An act to amend Section 707 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) (1) In any case in which a minor is alleged to be a person described in subdivision (a) of Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a

determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may already have been entered shall constitute evidence at the hearing.

(2) (A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:

(i) The minor has previously been found to have committed two or more felony offenses.

(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.

(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor.

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(iii) The minor's previous delinquent history.

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor.

(v) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of the above criteria. In any case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force, violence, or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping, as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(29) The offense described in Section 12308 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(d) (1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor

16 years of age or older who is accused of committing an offense enumerated in subdivision (b).

(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:

(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.

(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.

(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:

(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).

(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in any criminal conduct by gang members.

(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.6) of Part 1 of the Penal Code.

(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of any felony offense, when he or she was 14 years of age or older:

(A) Any felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(B) Any felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.6) of Part 1 of the Penal Code.

(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.

(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.

(5) For any offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(e) Any report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if

the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

CHAPTER 138

An act to amend Sections 739.3, 1765.1, 10082.5, and 12100 of the Insurance Code, relating to insurance.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 739.3 of the Insurance Code is amended to read:

739.3. (a) "Company Action Level Event" means any of the following events:

(1) The filing of an RBC Report by an insurer that indicates any of the following:

(A) The insurer's Total Adjusted Capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC.

(B) If a life or health insurer, the insurer has Total Adjusted Capital that is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 2.5, and has a negative trend.

(C) If a property and casualty insurer, the insurer has Total Adjusted Capital which is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0, and triggers the trend test determined in accordance with the trend test calculation included in the Property and Casualty RBC instructions.

(2) The notification by the commissioner to the insurer of an Adjusted RBC Report that indicates the event in subparagraph (A) or (B) of paragraph (1), provided the insurer does not challenge the Adjusted RBC Report under Section 739.7.

(3) If the insurer challenges an Adjusted RBC Report that indicates the event in subparagraph (A) or (B) of paragraph (1) under Section 739.7, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(b) In the event of a Company Action Level Event, the insurer shall prepare and submit to the commissioner a comprehensive financial plan which shall do all of the following:

(1) Identify the conditions in the insurer that contribute to the Company Action Level Event.

(2) Contain proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the Company Action Level Event.

(3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, or surplus, or a combination. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component.

(4) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions.

(5) Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.

(c) The RBC Plan shall be submitted as follows:

(1) Within 45 days of the Company Action Level Event.

(2) If the insurer challenges an Adjusted RBC Report pursuant to Section 739.7, within 45 days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(d) Within 60 days after the submission by an insurer of an RBC Plan to the commissioner, the commissioner shall notify the insurer whether the RBC Plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC Plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC Plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a Revised RBC Plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the Revised RBC Plan to the commissioner as follows:

(1) Within 45 days after the notification from the commissioner.

(2) If the insurer challenges the notification from the commissioner under Section 739.7, within 45 days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(e) In the event of a notification by the commissioner to an insurer that the insurer's RBC Plan or Revised RBC Plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under Section 739.7, specify in the notification that the notification constitutes a Regulatory Action Level Event.

(f) Every domestic insurer that files an RBC Plan or Revised RBC Plan with the commissioner shall file a copy of the RBC Plan or Revised RBC Plan with the insurance commissioner in any state in which the insurer is authorized to do business if the following apply:

(1) That state has an RBC provision substantially similar to subdivision (a) of Section 739.8.

(2) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC Plan or Revised RBC Plan in that state no later than the later of:

(A) Fifteen days after the receipt of notice to file a copy of its RBC Plan or Revised RBC Plan with the state.

(B) The date on which the RBC Plan or Revised RBC Plan is filed under subdivision (c) of Section 739.7.

SEC. 2. Section 1765.1 of the Insurance Code is amended to read:

1765.1. No surplus line broker shall place any coverage with a nonadmitted insurer unless the insurer is domiciled in the Republic of Mexico and the placement covers only liability arising out of the ownership, maintenance, or use of a motor vehicle, aircraft, or boat in the Republic of Mexico, or, at the time of placement, the nonadmitted insurer meets the following requirements:

(a) (1) Has established its financial stability, reputation, and integrity, for the class of insurance the broker proposes to place, by satisfactory evidence submitted to the commissioner through a surplus line broker.

(2) Meets one of the following requirements with respect to its financial stability:

(A) Has capital and surplus that together total at least fifteen million dollars ($15,000,000). "Capital" shall be as defined in Section 36. "Surplus" shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just

described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term "same character and quality" shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations, restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Letters of credit will not qualify as assets in the calculation of surplus. If less than fifteen million dollars ($15,000,000), the commissioner has affirmatively found that the capital and surplus is adequate to protect California policyholders. The commissioner shall consider, on determining whether to make this finding, factors such as quality of management, the capital and surplus of any parent company, the underwriting profit and investment income trends, and the record of claims payment and claims handling practices of the nonadmitted insurer.

(B) In the case of an "Insurance Exchange" created and authorized under the laws of individual states, maintains capital and surplus of not less than fifty million dollars ($50,000,000) in the aggregate. "Capital" shall be as defined in Section 36. "Surplus" shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term "same character and quality" shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations, restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets

substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Letters of credit shall not qualify as assets in the calculation of surplus. In the case of an Insurance Exchange which maintains funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placements of risks resident, located, or to be performed in this state shall maintain minimum capital and surplus of not less than six million four hundred thousand dollars ($6,400,000). Each individual syndicate shall increase the capital and surplus required by this paragraph by one million dollars ($1,000,000) each year until it attains a capital and surplus of fifteen million dollars ($15,000,000). In the case of Insurance Exchanges that do not maintain funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placement of risks resident, located, or to be performed in this state shall meet the capital and surplus requirements of subparagraph (A) of this paragraph.

(C) In the case of a syndicate that is part of a group consisting of incorporated individual insurers, or a combination of both incorporated and unincorporated insurers, that at all times maintains a trust fund of not less than one hundred million dollars ($100,000,000) in a qualified United States financial institution as security to the full amount thereof for the United States surplus line policyholders and beneficiaries of direct policies of the group, including all policyholders and beneficiaries of direct policies of the syndicate, and the full balance in the trust fund is available to satisfy the liabilities of each member of the group of those syndicates, incorporated individual insurers or other unincorporated insurers, without regard to their individual contributions to that trust fund, and the trust complies with the terms of and conditions specified in paragraph (1) of subdivision (b), the syndicate is excepted from the capital and surplus requirements of subparagraph (A) of paragraph (2). The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members.

(b) (1) In addition, to be eligible as a surplus line insurer, an insurer not domiciled in one of the United States or its territories shall have in force in the United States an irrevocable trust account in a qualified United States financial institution, for the protection of United States policyholders, of not less than five million four hundred thousand dollars ($5,400,000) and consisting of cash, securities acceptable to the

commissioner which are authorized pursuant to Sections 1170 to 1182, inclusive, readily marketable securities acceptable to the commissioner that are listed on a regulated United States national or principal regional security exchange, or clean and irrevocable letters of credit acceptable to the commissioner and issued by a qualified United States financial institution. The trust agreement shall be in a form acceptable to the commissioner. The funds in the trust account may be included in any calculation of capital and surplus, except letters of credit, which shall not be included in any calculation.

(2) In the case of a syndicate seeking eligibility under subparagraph (C) of paragraph (2) of subdivision (a), the syndicate shall, in addition to the requirements of that subparagraph, at a minimum, maintain in the United States a trust account in an amount satisfactory to the commissioner that is not less than the amount required by the domiciliary state of the syndicate's trust. The trust account shall comply with the terms and conditions specified in paragraph (1).

(3) In the case of a group of incorporated insurers under common administration that maintains a trust fund of not less than one hundred million dollars ($100,000,000) in a qualified United States financial institution for the payment of claims of its United States policyholders, their assigns, or successors in interest and that complies with the terms and conditions of paragraph (1) that has continuously transacted an insurance business outside the United States for at least three years, that is in good standing with its domiciliary regulator, whose individual insurer members maintain standards and a financial condition reasonably comparable to admitted insurers, that submits to this state's authority to examine its books and bears the expense of examination, and that has an aggregate policyholder surplus of ten billion dollars ($10,000,000,000), the group is excepted from the capital and surplus requirements of subdivision (a).

(c) Has caused to be provided to the commissioner the following documents:

(1) The financial documents as specified below, each showing the insurer's condition as of a date not more than 12 months prior to submission:

(A) A copy of an annual statement, prepared in the form prescribed by the NAIC. For an alien insurer, in lieu of an annual statement, a licensee may submit a form as set forth by regulation and as prepared by the insurer, and, if listed by the IID, a copy of the complete information as required in the application for listing by the IID.

(B) A copy of an audited financial report on the insurer's condition that meets the standards of subparagraph (D) for foreign insurers or subparagraph (E) for alien insurers.

(C) If the insurer is an alien:

(i) A certified copy of the trust agreement referenced in subdivision (b).

(ii) A verified copy of the most recent quarterly statement or list of the assets in the trust.

(D) Financial reports filed pursuant to this section by foreign insurers shall conform to the following standards:

(i) Financial documents shall be certified.

(ii) An audited financial report shall constitute a supplement to the insurer's annual statement, as required by the annual statement instructions issued by the NAIC.

(iii) An audited financial report shall be prepared by an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states where licensed to practice; and be prepared in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurance regulator of the insurer's domiciliary jurisdiction.

(iv) An audited financial report shall include information on the insurer's financial position as of the end of the most recent calendar year, and the results of its operations, cashflows, and changes in capital and surplus for the year then ended.

(v) An audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the insurer's annual statement filed with its domiciliary jurisdiction, and presenting comparatively the amounts as of December 31 of the most recent calendar year and the amounts as of December 31 of the preceding year.

(E) Financial reports filed pursuant to this section by alien insurers shall conform to the following standards:

(i) Except as provided in clause (ii) of subparagraph (C), financial documents should be certified, if certification of a financial document is not available, the document shall be verified.

(ii) Financial documents should be expressed in United States dollars, but may be expressed in another currency, if the exchange rate for the other currency as of the date of the document is also provided.

(iii) The responses provided pursuant to subparagraph (A) of paragraph (1) on the form submitted in lieu of an annual statement should follow the most recent ISI Guide to Alien Reporting Format, "Standard Definitions of Accounting Items." Responses that do not agree with a standard definition shall be fully explained in the form.

(iv) An audited financial report shall be prepared by an independent licensed auditor in the insurer's domiciliary jurisdiction or in any state.

(v) An audited financial report shall be prepared in accord with either (I) Generally Accepted Auditing Standards that prescribe Generally Accepted Accounting Principles, or (II) International Accounting Standards as published and revised from time to time by the International Auditing Guidelines published by the International Auditing Practice Committee of the International Federation of Accountants; and shall include financial statement notes and a summary of significant accounting practices.

(F) The commissioner may accept, in lieu of a document described above, any certified or verified financial or regulatory document, statement, or report if the commissioner finds that it possesses reliability and financial detail substantially equal to or greater than the document for which it is proposed to be a substitute.

(G) If one of the financial documents required to be submitted under subparagraphs (A) and (B) is dated within 12 months of submission, but the other document is not so dated, the licensee may use the outdated document if it is accompanied by a supplement. The supplement must meet the same requirements which apply to the supplemented document, and must update the outdated document to a date within the prescribed time period, preferably to the same date as the nonsupplemented document.

(2) A certified copy of the insurer's license issued by its domiciliary jurisdiction, plus a certification of good standing, certificate of compliance, or other equivalent certificate, from either that jurisdiction or, if the jurisdiction does not issue those certificates, from any state where it is licensed.

(3) Information on the insurer's agent in California for service of process, including the agent's full name and address. The agent's address must include a street address where the agent can be reached during normal business hours.

(4) The complete street address, mailing address, and telephone number of the insurer's principal place of business.

(5) A certified or verified explanation, report, or other statement, from the insurance regulatory office or official of the insurer's domiciliary jurisdiction, concerning the insurer's record regarding market conduct and consumer complaints; or, if that information cannot be obtained from that jurisdiction, then any other information that the licensee can procure to demonstrate a good reputation for payment of claims and treatment of policyholders.

(6) A verified statement, from the insurer or licensee, on whether the insurer or any affiliated entity is currently known to be the subject of any order or proceeding regarding conservation, liquidation, or other receivership; or regarding revocation or suspension of a license to transact

insurance in any jurisdiction; or otherwise seeking to stop the insurer from transacting insurance in any jurisdiction. The statement shall identify the proceeding by date, jurisdiction, and relief or sanction sought; and shall attach a copy of the relevant order.

(7) A certified copy of the most recent report of examination or an explanation if the report is not available.

(8) A list of all California surplus line brokers authorized by the insurer to issue policies on its behalf, and any additions to or deletions from that list.

(d) (1) Has provided any additional information or documentation required by the commissioner that is relevant to the financial stability, reputation, and integrity of the nonadmitted insurer. In making a determination concerning financial stability, reputation, and integrity of the nonadmitted insurer, the commissioner shall consider any analyses, findings, or conclusions made by the National Association of Insurance Commissioners (NAIC) in its review of the insurer for purposes of inclusion on or exclusion from the list of authorized nonadmitted insurers maintained by the NAIC. The commissioner may, but shall not be required to, rely on, adopt, or otherwise accept any analyses, findings, or conclusions of the NAIC, as the commissioner deems appropriate. In the case of a syndicate seeking eligibility under subparagraph (C) of paragraph (2) of subdivision (a), the commissioner may, but shall not be required to, rely on, adopt, or otherwise accept any analyses, findings, or conclusions of any state, as the commissioner deems appropriate, as long as that state, in its method of regulation and review, meets the requirements of paragraph (2).

(2) The regulatory body of the state shall regularly receive and review the following: (A) an audited financial statement of the syndicate, prepared by a certified or chartered public accountant; (B) an opinion of a qualified actuary with regard to the syndicate's aggregate reserves for payment of losses or claims and payment of expenses of adjustment or settlement of losses or claims; (C) a certification from the qualified United States financial institution that acts as the syndicate's trustee, respecting the existence and value of the syndicate's trust fund; and (D) information concerning the syndicate's or its manager's operating history, business plan, ownership and control, experience and ability, together with any other pertinent factors, and any information indicating that the syndicate or its manager make reasonably prompt payment of claims in this state or elsewhere. The regulatory body of the state shall have the authority, either by law or through the operation of a valid and enforceable agreement, to review the syndicate's assets and liabilities and audit the syndicate's trust account, and shall exercise that authority with a frequency and in a manner satisfactory to the commissioner.

(e) Has established that:

(1) All documents required by subdivisions (c) and (d) have been filed. Each of the documents appear after review to be complete, clear, comprehensible, unambiguous, accurate, and consistent.

(2) The documents affirm that the insurer is not subject in any jurisdiction to an order or proceeding that:

(A) Seeks to stop it from transacting insurance.

(B) Relates to conservation, liquidation, or other receivership.

(C) Relates to revocation or suspension of its license.

(3) The documents affirm that the insurer has actively transacted insurance for the three years immediately preceding the filing made under this section, unless an exemption is granted. As used in this paragraph, "insurer" does not include a syndicate of underwriting entities. The commissioner may grant an exemption if the licensee has applied for exemption and demonstrates either of the following:

(A) The insurer meets the condition for any exception set forth in subdivision (a), (b), or (c) of Section 716.

(B) If the insurer has been actively transacting insurance for at least 12 months, and the licensee demonstrates that the exemption is warranted because the insurer's current financial strength, operating history, business plan, ownership and control, management experience, and ability, together with any other pertinent factors, make three years of active insurance transaction unnecessary to establish sufficient reputation.

(4) The documents confirm that the insurer holds a license to issue insurance policies (other than reinsurance) to residents of the jurisdiction that granted the license unless an exemption is granted. The commissioner may grant an exemption if the licensee has applied for an exemption and demonstrates that the exemption is warranted because the insurer proposes to issue in California only commercial coverage, and is wholly owned and actually controlled by substantial and knowledgeable business enterprises that are its policyholders and that effectively govern the insurer's destiny in furtherance of their own business objectives.

(5) The information filed pursuant to paragraph (5) of subdivision (c) or otherwise filed with or available to the commissioner, including reports received from California policyholders, shall indicate that the insurer makes reasonably prompt payment of claims in this state or elsewhere.

(6) The information available to the commissioner shall not indicate that the insurer offers in California a licensee products or rates that violate any provision of this code.

(f) Has been placed on the list of eligible surplus line insurers by the commissioner. The commissioner shall establish a list of all surplus line insurers that have met the requirements of subdivisions (a) to (e), inclusive, and shall publish a master list at least semiannually. Any

insurer receiving approval as an eligible surplus line insurer shall be added by addendum to the list at the time of approval, and shall be incorporated into the master list at the next date of publication. If an insurer appears on the most recent list, it shall be presumed that the insurer is an eligible surplus line insurer, unless the commissioner or his or her designee has mailed or causes to be mailed notice to all surplus line brokers that the commissioner has withdrawn the insurer's eligibility. Upon receipt of notice, the surplus line broker shall make no further placements with the insurer. Nothing in this subdivision shall limit the commissioner's discretion to withdraw an insurer's eligibility.

(g) (1) Except as provided by paragraph (2), whenever the commissioner has reasonable cause to believe, and determines after a public hearing, that any insurer on the list established pursuant to subdivision (f), (A) is in an unsound financial condition, (B) does not meet the eligibility requirements under subdivisions (a) to (e), inclusive, (C) has violated the laws of this state, or (D) without justification, or with a frequency so as to indicate a general business practice, delays the payment of just claims, the commissioner may issue an order removing the insurer from the list. Notice of hearing shall be served upon the insurer or its agent for service of process stating the time and place of the hearing and the conduct, condition, or ground upon which the commissioner would make his or her order. The hearing shall occur not less than 20 days, nor more than 30 days after notice is served upon the insurer or its agent for service of process.

(2) If the commissioner determines that an insurer's immediate removal from the list is necessary to protect the public or an insured or prospective insured of the insurer, or, in the case of an application by an insurer to be placed on the list which is being denied by the commissioner, the commissioner may issue an order pursuant to paragraph (1) without prior notice and hearing. At the time an order is served pursuant to this paragraph to an insurer on the list, the commissioner shall also issue and serve upon the insurer a statement of the reasons that immediate removal is necessary. Any order issued pursuant to this paragraph shall include a notice stating the time and place of a hearing on the order, which shall be not less than 20 days, nor more than 30 days after the notice is served.

(3) Notwithstanding paragraphs (1) and (2), in any case where the commissioner is basing a decision to remove an insurer from the list, or deny an application to be placed on the list, on the failure of the insurer or applicant to comply with, meet or maintain any of the objective criteria established by this section, or by regulation adopted pursuant to this section, the commissioner may so specify this fact in the order, and no hearing shall be required to be held on the order.

(4) Notwithstanding paragraphs (1) and (2), the commissioner may, without prior notice or hearing, remove from the list established pursuant to subdivision (f) any insurer that has failed or refused to timely provide documents required by this section, or any regulations adopted to implement this section. In the case of removal pursuant to this paragraph, the commissioner shall notify all surplus line brokers of the action.

(h) In addition to any other statements or reports required by this chapter, the commissioner may also address to any licensee a written request for full and complete information respecting the financial stability, reputation and integrity of any nonadmitted insurer with whom the licensee has dealt or proposes to deal in the transaction of insurance business. The licensee so addressed shall promptly furnish in written or printed form so much of the information requested as he or she can produce together with a signed statement identifying the same and giving reasons for omissions, if any. After due examination of the information and accompanying statement, the commissioner may, if he or she believes it to be in the public interest, order the licensee in writing to place no further insurance business on property located or operations conducted within or on the lives of persons who are residents of this state with the nonadmitted insurer on behalf of any person. Any placement in the nonadmitted insurer made by a licensee after receipt of that order is a violation of this chapter. The commissioner may issue an order when documents submitted pursuant to subdivisions (c) and (d) do not meet the criteria of subdivisions (a) to (e), inclusive, or when the commissioner obtains documents on an insurer and the insurer does not meet the criteria of subdivisions (a) to (e), inclusive.

(i) The commissioner shall require, at least annually, the submission of records and statements as are reasonably necessary to ensure that the requirements of this section are maintained.

(j) The commissioner shall establish by regulation a schedule of fees to cover costs of administering and enforcing this chapter.

(k) (1) Insurance may be placed on a limited basis with insurers not on the list established pursuant to this section if all of the following conditions are met:

(A) The use of multiple insurers is necessary to obtain coverage for 100 percent of the risk.

(B) At least 80 percent of the risk is placed with admitted insurers or insurers that appear on the list of eligible nonadmitted insurers.

(C) The placing surplus line broker submits to the commissioner, or his or her designee, copies of all documentation relied upon by the surplus line broker to make the broker's determination that the financial stability, reputation, and integrity of the unlisted insurer or insurers, are adequate to safeguard the interest of the insured under the policy. This

documentation, and any other documentation regarding the unlisted insurer requested by the commissioner, shall be submitted no more than 30 days after the insurance is placed with the unlisted insurer for the initial placement by that broker with the particular unlisted insurer, and annually thereafter for as long as the broker continues to make placements with the unlisted insurer pursuant to this paragraph.

(D) The insured has aggregate annual premiums for all risks other than workers' compensation or health coverage totaling no less than one hundred thousand dollars ($100,000).

(2) Insurance may not be placed pursuant to paragraph (1) if any of the following applies:

(A) The unlisted insurer has for any reason been objected to by the commissioner pursuant to this section, removed from the list, or denied placement on the list.

(B) The insurance includes coverage for employer-sponsored medical, surgical, hospital, or other health or medical expense benefits payable to the employee by the insurer.

(C) The insurance is mandatory under the laws of the federal government, this state, or any political subdivision thereof, and includes any portion of limits of coverage mandated by those laws.

(D) The insured is a multiple employer welfare arrangement, as defined in Section 1002(40)(A) of Title 29 of the United States Code, or any other arrangement among two or more employers that are not under common ownership or control, which is established or maintained for the primary purpose of providing insurance benefits to the employees of two or more employers.

(E) Unlisted insurers represent a disproportionate portion of the lower layers of the coverage.

(3) Nothing in this section is intended to alter any duties of a surplus line broker pursuant to subdivision (b) of Section 1765 or other laws of this state to safeguard the interests of the insured under the policy in recommending or placing insurance with a nonadmitted insurer.

(4) Placements authorized by this subdivision are intended to provide sophisticated insurance purchasers with a means to obtain necessary commercial insurance coverage from nonadmitted insurers not listed by the commissioner in situations where it is not commercially possible to fully obtain that coverage from either admitted or listed insurers. This subdivision shall not be deemed to permit surplus line brokers to place with nonadmitted insurers common commercial or personal line coverages for insureds that can be placed with insurers that are admitted or listed pursuant to this section, whether the insured is an individual insured, or a group created primarily for the purpose of purchasing insurance.

(*l*) As used in this section:

(1) "Certified" means an originally signed or sealed statement, dated not more than 60 days before submission, made by a public official or other person, attached to a copy of a document, that attests that the copy is a true copy of the original, and that the original is in the custody of the person making the statement.

(2) "Domiciliary jurisdiction" means the state, nation, or subdivision thereof under the laws of which an insurer is incorporated or otherwise organized.

(3) "Domiciliary state of the syndicate's trust" means the state in which the syndicate's trust fund is principally maintained and administered for the benefit of the syndicate's policyholders in the United States.

(4) "IID" means the International Insurers Department.

(5) "Insurer" means (unless the context indicates otherwise) "nonadmitted" insurers that are either "foreign" or "alien" insurers, as those terms are defined in Sections 25, 27, and 1580, and syndicates whose members consist of individual incorporated insurers who are not engaged in any business other than underwriting as a member of the group and individual unincorporated insurers, provided all the members are subject to the same level of solvency regulation and control by the group's domiciliary regulator. The term "insurer" includes all nonadmitted insurers selling insurance to or through purchasing groups as defined in the Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3901 et seq.) and the California Risk Retention Act of 1990 (Chapter 1.5 (commencing with Section 125) of Part 1 of Division 1), except insurers that are risk retention groups as defined by those acts.

(6) "ISI" means Insurance Solvency International.

(7) "Licensee" means a surplus line broker as defined in Section 47.

(8) "NAIC" means the National Association of Insurance Commissioners or its successor organization.

(9) "NAIIO" means the Nonadmitted Alien Insurer Information Office of the NAIC or its successor office.

(10) "State" means any state of the United States; the District of Columbia; a commonwealth, or a territory.

(11) "Verified" means a document or copy accompanied by an originally signed statement, dated not more than 60 days before submission, from a responsible executive or official who has authority to provide the statement and knowledge whereof he or she speaks, attesting either under oath before a notary public, or under penalty of perjury under California law, that the assertions made in the document are true.

(m) With respect to a nonadmitted insurer that is listed as an authorized surplus line insurer as of December 31, 1994, pursuant to Sections 2174.1 to 2174.14, inclusive, of Title 10 of the California Code of Regulations, this section shall not be effective until the subsequent expiration of the listing of that insurer. Nothing in the bill that amended this section during the 1994 portion of the 1993–94 Regular Session is intended to repeal or imply there is not authority to adopt, or to have adopted, or to continue in force, any regulation, or part thereof, with respect to surplus line insurance which is not clearly inconsistent with it.

SEC. 3. Section 10082.5 of the Insurance Code is amended to read:

10082.5. (a) If an insurer subject to this chapter charges an additional earthquake insurance premium or deductible because a dwelling fails to comply with paragraph (1), (2), (3), (4), or (5) and the dwelling is subsequently brought into compliance with any one of these paragraphs, then the additional premium or deductible attributed to noncompliance shall not be charged.

(1) Until December 31, 2008, compliance with the foundation anchor bolt requirements of subdivision (f) of Section 2907 of Chapter 29 of the 1991 edition of the Uniform Building Code of the International Conference of Building Officials, or a successor building code adopted by the State of California, or with any local government modifications to those requirements.

(2) Until December 31, 2008, compliance with the bracing requirements for cripple walls of paragraph (4) of subdivision (g) of Section 2517 of Chapter 25 of the 1991 edition of the Uniform Building Code of the International Conference of Building Officials, or a successor building code adopted by the State of California, and with any local government modifications to those requirements.

(3) Compliance with Section 19215 of the Health and Safety Code for the bracing, anchoring, or strapping all water heaters to resist falling or horizontal displacement due to earthquake motion.

(4) Commencing on January 1, 2009, compliance with the foundation anchor bolt requirements of the 2007 edition of the California Building Standards Code as specified in Title 24 of the California Code of Regulations, or a successor edition of that code, or with any local government modifications to those requirements.

(5) Commencing on January 1, 2009, compliance with the bracing requirements for cripple walls of the 2007 edition of the California Building Standards Code as specified in Title 24 of the California Code of Regulations, or a successor edition of that code, or with any local government modifications to those requirements.

(b) A copy of the approved inspection record for the building permit for work performed pursuant to this section shall be submitted by the insured to the insurer in order to verify that retrofits performed pursuant to this section have been performed.

SEC. 4. Section 12100 of the Insurance Code is amended to read:

12100. As used in this article:

(a) (1) "Financial guaranty insurance" means a surety bond, an insurance policy or, when issued by an insurer, an indemnity contract and any guarantee similar to the foregoing types, under which loss is payable upon proof of occurrence of financial loss to an insured claimant, obligee, or indemnitee as a result of any of the following events:

(A) Failure of any obligor on or issuer of any debt instrument or other monetary obligation (including equity securities guaranteed under a surety bond, insurance policy, or indemnity contract) to pay, when due to be paid by the obligor or scheduled at the time insured to be received by the holder of the obligation, principal, interest, premium, dividend, purchase price of or on the instrument or obligation, or other monetary payment when the failure is the result of financial default or insolvency, or, provided that the payment source is investment grade, any other failure of that payment source to make payment, regardless of whether the obligation is incurred directly or as guarantor by or on behalf of another obligor that has also defaulted.

(B) Changes in the levels of interest rates, whether short or long term, or the differential in interest rates between various markets or products.

(C) Changes in the rate of exchange of currency.

(D) Changes in the value of financial or commodity indices, or price levels in general.

(E) Other events that the commissioner determines by order, regulation, or written consent are substantially similar to any of the foregoing.

(2) Notwithstanding paragraph (1), "financial guaranty insurance" shall not include any of the following:

(A) Insurance of any loss resulting from any event described in paragraph (1), if the loss is payable only upon the occurrence of any of the following, as specified in a surety bond, insurance policy, or indemnity contract:

(i) A fortuitous physical event.

(ii) A failure of or deficiency in the operation of equipment.

(iii) An inability to extract or recover a natural resource.

(B) Title insurance authorized by Section 104 and as permitted to be written by title insurers pursuant to Chapter 1 (commencing with Section 12340) of Part 6 of this division.

(C) Surety insurance as authorized by Section 105.

(D) Credit unemployment insurance, meaning insurance on a debtor in connection with a specific loan or other credit transaction, to provide payments to a creditor in the event of unemployment of the debtor for the installments or other periodic payments becoming due while a debtor is unemployed.

(E) Credit insurance authorized by Section 113.

(F) Guaranteed investment contracts and funding agreements issued by life insurance companies which provide that the life insurer itself will make specified payments in exchange for specific premiums or contributions.

(G) Mortgage insurance authorized by Section 117 and as permitted to be written by mortgage insurers pursuant to Chapter 2 (commencing with Section 12420) of Part 6 of this division.

(H) Mortgage guaranty insurance authorized by Section 119 and as permitted to be written by a mortgage guaranty insurer pursuant to Chapter 2A (commencing with Section 12640.01) of Part 6 of this division.

(I) Indemnity contracts or similar guarantees, to the extent that they are not otherwise limited or proscribed by this article, in which a life insurer does any of the following:

(i) Guarantees its obligations or indebtedness or the obligations or indebtedness of a subsidiary (as defined in Section 1215) other than a financial guaranty insurance corporation; provided that:

(I) To the extent that any such obligations or indebtedness are backed by specific assets, those assets shall at all times be owned by the life insurer or the subsidiary.

(II) In the case of the guarantee of the obligations or indebtedness of the subsidiary that are not backed by specific assets of the life insurer, the guarantee terminates once the subsidiary ceases to be a subsidiary.

(ii) Guarantees obligations or indebtedness (including the obligation to substitute assets where appropriate) with respect to specific assets acquired by a life insurer in the course of normal investment activities and not for the purpose of resale with credit enhancement, or guarantees obligations or indebtedness acquired by its subsidiary, provided that the assets acquired pursuant to this clause have been either of the following:

(I) Acquired by a special purpose entity, whose sole purpose is to acquire specific assets of the life insurer or the subsidiary and issue securities or participation certificates backed by the assets.

(II) Sold to an independent third party.

(iii) Guarantees obligations or indebtedness of an employee or agent of the life insurer.

(J) Any cramdown bond or mortgage repurchase bond, as those phrases are used by nationally recognized rating agencies in respect of mortgage-backed securities.

(K) Residual value insurance.

(L) Any other form of insurance covering risks that the commissioner determines by order, regulation, or written consent to be substantially similar to any of the foregoing.

(b) "Affiliate" means a person that, directly or indirectly, owns at least 10 but less than 50 percent of the financial guaranty insurance corporation or that is at least 10 percent but less than 50 percent, directly or indirectly, owned by a financial guaranty insurance corporation.

(c) "Asset-backed securities" means either of the following:

(1) Securities or other financial obligations of an issuer provided that both of the following apply:

(A) The issuer is a special purpose corporation, trust, or other entity, or, provided that the securities or other financial obligations constitute an insurable risk, is a bank, trust company, or other financial institution, deposits in which are insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or any successors thereto.

(B) The securities or other financial obligations are related to a pool of assets so that all of the following apply:

(i) The pool of assets has been conveyed, pledged, or otherwise transferred to or is otherwise owned or acquired by the issuer.

(ii) The pool of assets backs the securities or other financial obligations issued.

(iii) No asset in the pool, other than an asset directly payable by, guaranteed by, or backed by the full faith and credit of the United States government or that otherwise qualifies as collateral under paragraph (1) or (2) of subdivision (e), has a value exceeding 20 percent of the aggregate value of the pool.

(2) A pool of credit default swaps or credit default swaps referencing a pool of obligations, provided that each of the following is true:

(A) The swap counterparty whose obligations are insured under the credit default swap is a special purpose corporation, special purpose trust, or other special purpose legal entity.

(B) No reference obligation in the pool, other than an obligation directly payable by, guaranteed by, or backed by the full faith and credit of the United States government, or that otherwise qualifies as collateral under paragraph (2) of subdivision (e), has a notional amount exceeding 10 percent of the pool's aggregate notional amount.

(C) The insurer has the benefit of a deductible or other first loss credit protection against claims under its insurance policy.

(d) "Average annual debt service" means the amount of insured unpaid principal and interest on an obligation multiplied by the number of the insured obligations (assuming that each obligation represents a $1,000 par value), divided by the amount equal to the aggregate life of all of those obligations. This definition, expressed as a formula in regard to bonds, is as follows:

$$\text{Average Annual Debt Service} = \frac{\text{Total Debt Service} \times \text{Number of Bonds}}{\text{Bond Years}}$$

$$\text{Total Debt Service} = \text{Insured Unpaid Principal + Interest}$$

$$\text{Number of Bonds} = \frac{\text{Total Insured Principal}}{\$1{,}000}$$

$$\text{Bond Years} = \text{Number of Bonds} \times \text{Term in Years}$$

Term in Years = Term to maturity based on scheduled amortization or, in the absence of a scheduled amortization in the case of asset-backed securities or other obligations lacking a scheduled amortization, expected amortization, in each case determined as of the date of issuance of the insurance policy based upon the amortization assumptions employed in pricing the insured obligations or otherwise used by the insurer to determine aggregate net liability.

(e) "Collateral" means any of the following:

(1) Cash.

(2) The cashflow from specific obligations which are not callable and scheduled to be received based on expected prepayment speed on or prior to the date of scheduled debt service (including scheduled redemptions and prepayments) on the insured obligation, provided that any of the following is true, as applicable:

(A) The specific obligations are directly payable by, guaranteed by or backed by the full faith and credit of the United States government.

(B) In the case of insured obligations denominated or payable in a foreign currency as permitted under paragraph (3) of subdivision (b) of Section 12112, the specific obligations are directly payable by, guaranteed by, or backed by the full faith and credit of the foreign government or the central bank thereof.

(C) The specific obligations are insured by the same insurer that insures the obligations being collateralized, and the cashflows from the specific obligations are sufficient to cover the insured scheduled payments on the obligations being collateralized.

(3) The market value of investment grade obligations, other than obligations evidencing an interest in the project or projects financed with the proceeds of the insured obligations.

(4) The face amount of each letter of credit that meets all of the following criteria:

(A) Is irrevocable.

(B) Provides for payment under the letter of credit in lieu of or as reimbursement to the insurer for payment required under a financial guaranty insurance policy.

(C) Is issued, presentable, and payable either:

(i) At an office of the letter of credit issuer in the United States.

(ii) At an office of the letter of credit issuer located in the jurisdiction in which the trustee or paying agent for the insured obligation is located.

(D) Contains a statement that either:

(i) Identifies the financial guaranty insurance corporation, its collateral agent, or any successor by operation of law, including any liquidator, rehabilitator, receiver or conservator, as the beneficiary.

(ii) Identifies the trustee or the paying agent for the insured obligation as the beneficiary.

(E) Contains a statement to the effect that the obligation of the letter of credit issuer under the letter of credit is an individual obligation of that issuer and is in no way contingent upon reimbursement with respect thereto.

(F) Contains an issue date and an expiration date.

(G) Does either of the following:

(i) Has a term at least as long as the shorter of the term of the insured obligation or the term of the financial guaranty insurance policy.

(ii) Provides that the letter of credit shall not expire without 30 days prior written notice to the beneficiary and allows for drawing under the letter of credit in the event that, prior to expiration, the letter of credit is not renewed or extended or a substitute letter of credit or alternate collateral meeting the requirements of subdivision (e) is not provided.

(H) If the letter of credit is governed by the 1983 revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400 or 500), or any successor revision approved by the commissioner, it shall contain a provision for an extension of time, of not less than 30 days after resumption of business, to draw against the letter of credit in the event that one or more of the occurrences described in Article 19 of Publication 400 or 500 occurs.

(I) Is issued by a bank, trust company, or savings association that meets all of the following criteria:

(i) Is organized and existing under the laws of the United States or any state thereof or, in the case of a financial institution organized under the laws of a foreign country, has a branch or agency office licensed under the laws of the United States or any state thereof and is domiciled in a member country of the Organization of Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a securities rating agency acceptable to the commissioner.

(ii) Has (or is the principal operating subsidiary of a financial institution holding company that has) a long-term debt rating of at least investment grade.

(iii) Is not a parent, subsidiary or affiliate of the trustee or paying agent, if any, with respect to the insured obligation if that trustee or paying agent is the named beneficiary of the letter of credit.

(5) The amount of credit protection available to the insurer (or its nominee) under each credit default swap that satisfies each of the following:

(A) May not be amended without the consent of the insurer and may only be terminated in accordance with one of the following:

(i) At the option of the insurer.

(ii) At the option of the counterparty to the insurer (or its nominee), if the credit default swap provides for the payment of a termination amount equal to the replacement cost of the terminated credit default swap determined with reference to standard documentation of the International Swap and Derivatives Association, Inc. or otherwise acceptable to the commissioner.

(iii) At the discretion of the commissioner acting as rehabilitator, liquidator, or receiver of the insurer upon payment by or on behalf of the insurer of any termination amount due from the insurer.

(B) Provides for payment under all instances in which payment under a financial guaranty insurance policy is required, except that payment under the credit default swap may be on a first loss, excess of loss, or other nonpro-rata basis and may apply on an aggregate basis to more than one policy.

(C) Is provided by one of the following:

(i) A counterparty whose obligations under the credit default swap are insured by a financial guaranty insurance corporation licensed under this article or guaranteed by a financial institution referred to in clauses (ii) and (iii) of this subparagraph.

(ii) A financial institution satisfying the requirements of clauses (i) to (iii), inclusive, of subparagraph (I) of paragraph (4), provided that obligations of the financial institution on parity with its obligations under the credit default swap are rated as investment grade, and further provided

that, if the financial institution is not organized under, or acting through a branch or agency office licensed under, the laws of the United States or any state thereof, then the financial institution is required to collateralize the replacement cost of the credit default swap in the event that it fails to maintain the investment grade rating.

(iii) Any other financial institution that the commissioner determines to be substantially similar to any specified in clause (i) or (ii).

(iv) The requirements of this subparagraph shall not be construed as authority for an insurer domiciled in the United States to issue credit default swaps unless the insurer has explicit authority to issue credit default swaps.

Collateral shall be deposited with or held by the financial guaranty insurance corporation, held by a trustee or agent for the benefit of the financial guaranty insurance corporation in trust or to perfect a security interest, or held in trust pursuant to the bond indenture or other trust arrangement by a trustee or custodian for the benefit of holders of the insured obligations in the form of funds for payment of insured obligations, sinking funds, or other reserves which may be used for the payment of insured obligations, collateral agent fees and trustee fees, or reimbursement of the financial guaranty insurance corporation on any obligation insured by the corporation. Any such trustee, custodian, or agent shall be a bank, savings association, depository institution, or other entity acceptable to the commissioner, the deposits of which are insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation (or any successors thereto), or in the case of banking organizations organized under the laws of a foreign country in addition satisfies the requirements of clauses (i) and (ii) of subparagraph (I) of paragraph (4) of subdivision (e) of Section 12100, and, in each case which has a net worth of at least twenty-five million dollars ($25,000,000). Any such trustee or agent may also be an approved or qualified servicer or originator of the kind of assets which comprise the collateral which maintains in force at all times errors and omissions insurance applicable to the trust or agency activities, including without limitation, a servicer qualified under a federal or state insurance or guaranty program to service loans or mortgage loans. The commissioner may adopt regulations, bulletins, notices or orders to limit the amount of collateral provided by obligations, letters of credit, or credit default swaps, or to limit the amount of collateral provided by any single issuer, bank, or counterparty as provided for in this subdivision. The commissioner may also require additional reporting as deemed necessary.

(f) "Commercial real estate" means income-producing real property other than residential property consisting of less than five units.

(g) "Contingency reserve" means an additional liability reserve established to protect policyholders against the effects of adverse economic cycles or other unforeseen circumstances.

(h) "Credit default swap" means an agreement referencing credit derivative definitions published from time to time by the International Swap and Derivatives Association, Inc., or otherwise acceptable to the commissioner, pursuant to which a party agrees to compensate another party in the event of a payment default by, insolvency of, or other adverse credit event in respect of, an issuer of a specified security or other obligation; provided that the agreement does not constitute an insurance contract and the making of the credit default swap does not constitute the transaction of insurance.

(i) "Excess spread" means, with respect to any insured issue of asset-backed securities, the excess of (A) the scheduled cashflow on the underlying assets that is reasonably projected to be available, over the term of the insured securities after payment of the expenses associated with the insured issue, to make debt service payments on the insured securities over (B) the scheduled debt service requirements on the insured securities, provided that this excess is held in the same manner as collateral is required to be held under subdivision (e).

(j) "Financial guaranty insurance corporation" means an insurer transacting financial guaranty insurance.

(k) "Governmental unit" means a state, territory, or possession of the United States of America, the District of Columbia, the country of Canada, a province of Canada, the United Kingdom, a public authority of the United Kingdom, a member country of the Organization for Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a securities rating agency acceptable to the commissioner, a municipality, or a political subdivision of any of the foregoing, or any public agency or instrumentality thereof.

(*l*) "Guarantees of consumer debt obligations" means insurance policies indemnifying a purchaser or lender against loss or damage resulting from defaults on a pool of debts owed for extensions of credit (including in respect of installment purchase agreements and leases) to individuals provided in the normal course of the purchaser's or lender's business, provided that the pool meets the requirements of paragraph (2) of subdivision (c) and that the pool has been determined to be investment grade. Policies providing that coverage shall contain a provision that all liability terminates upon sale or transfer of the underlying obligation to any transferee that is not an insured of the financial guaranty insurance corporation under a similar policy.

(m) "Industrial development bond" means any security, or other instrument under which a payment obligation is created, issued by or on behalf of a governmental unit to finance a project serving a private industrial, commercial, or manufacturing purpose and not guaranteed by a governmental unit.

(n) "Insurable risk" means that the obligation on an uninsured basis has been determined to be not less than investment grade. With respect to asset-backed securities as defined in subdivision (c), the determination shall be, based solely on the pool of assets backing the insured obligation or securing the financial guaranty insurance corporation, without consideration of the creditworthiness of the issuer.

(o) "Investment grade" means that the obligation or parity obligation of the same issuer is rated in one of the top four generic lettered rating classifications by a securities rating agency acceptable to the commissioner, that the obligation or parity obligation of the same issuer, without regard to financial guaranty insurance, has been identified in writing by that rating agency as an insurable risk deemed to be of investment grade quality, or that the obligation or parity obligation of the same issuer has been determined to be investment grade (as indicated by a category 1 or 2 rating) by the Securities Valuation Office of the National Association of Insurance Commissioners.

(p) "Municipal bonds" means municipal obligation bonds and special revenue bonds.

(q) (1) "Municipal obligation bond" means any security, or other instrument, including a lease payable or guaranteed by the United States or another national government that qualifies as a governmental unit, or any agency, department, or instrumentality thereof, or by a state or an equivalent subdivision of another national government that qualifies as a governmental unit, but not a lease of any other governmental unit, under which a payment obligation is created, issued by or on behalf of a governmental unit or issued by a special purpose corporation, special purpose trust, or other special purpose legal entity to finance a project or undertaking serving a substantial public purpose, and which is one or more of the following:

(A) Payable from tax revenues, but not tax allocations, within the jurisdiction of the governmental unit.

(B) Payable or guaranteed by the United States of America or another national government that qualifies as a governmental unit, or any agency, department, or instrumentality thereof, or by a housing agency of a state or an equivalent political subdivision of another national government that qualifies as a governmental unit.

(C) Payable from rates or charges (but not tolls) levied or collected in respect of a nonnuclear utility project, public transportation facility (other than an airport facility) or public higher education facility.

(D) With respect to lease obligations, payable from past, present, or future appropriations.

(2) Notwithstanding paragraph (1), obligations of a special purpose corporation, special purpose trust, or other special purpose legal entity shall not be considered municipal obligation bonds unless the obligations are investment grade at the time of issuance, the obligations are payable from sources enumerated in subparagraphs (A) to (D), inclusive, and the project being financed or the tolls, tariffs, usage fees, or other similar rates or charges for its use are subject to regulation or oversight by a governmental entity.

(r) "Parent" means a person that, directly or indirectly, owns at least 50 percent of a financial guaranty insurance corporation.

(s) "Reinsurance" means cessions qualifying for credit under Section 12121.

(t) "Security" or "secured" means any of the following:

(1) A deposit at least equal to the full amount of the outstanding principal of the insured obligation.

(2) Collateral, as defined by subdivision (e), at least equal to the full amount of the outstanding principal of the insured obligation or that has a market value or scheduled cashflow which is equal to or greater than the scheduled debt service on the insured obligation.

(3) Property, provided the financial guaranty insurance corporation or the trustee has possession of evidence of the right, title, or authority to claim or foreclose thereon or otherwise dispose of the property for value, the scheduled cashflow from which, or market value thereof, is at least equal to the scheduled debt service on the insured obligation.

(u) "Special revenue bond" means any security or other instrument under which a payment obligation is created, issued by or on behalf of, or payable or guaranteed by, a governmental unit to finance a project or undertaking serving a substantial public purpose and not payable from the sources enumerated in subdivision (q) or securities which are substantially similar to the foregoing issued by any of the following:

(1) A not-for-profit corporation.

(2) A special purpose corporation, special purpose trust or other special purpose legal entity, provided that the obligations are investment grade at the time of issuance, the obligations are not payable from the sources enumerated in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (q), and the project being financed or the tolls, tariffs, usage fees, or other similar rates or charges for its use are subject to regulation or oversight by a governmental entity.

(v) "Subsidiary" means a person that, directly or indirectly, is at least 50 percent owned by a financial guaranty insurance corporation.

(w) "Total net liability" of a financial guaranty insurance corporation means the aggregate amount of insured unpaid principal, interest, and other monetary payments, if any, of guaranteed obligations insured or assumed, less reinsurance and less collateral.

(x) "Utility first mortgage obligation" means an obligation of an issuer secured by a first priority mortgage on property owned or leased by an investor-owned or cooperative-owned utility company and located in the United States, Canada, or a member country of the Organization for Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a securities rating agency acceptable to the commissioner, provided that the utility or utility property or the usage fees or other similar utility rates or charges are subject to regulation or oversight by a governmental entity.

CHAPTER 139

An act to amend Section 12027 of the Penal Code, relating to firearms.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to, or affect, any of the following:

(a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in

issuing certificates pursuant to this subdivision. As used in this section and Section 12031, the term "honorably retired" includes all peace officers who have qualified for, and have accepted, a service or disability retirement. For purposes of this section and Section 12031, the term "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination.

(B) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(D) A certificate issued pursuant to this paragraph for persons who are not listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 or for persons retiring after January 1, 1981, shall be in the following format: it shall be on a 2×3 inch card, bear the photograph of the retiree, the retiree's name, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped on it the endorsement "CCW Approved" and the date the endorsement is to be renewed. A certificate issued pursuant to this paragraph shall not be valid as identification for the sale, purchase, or transfer of a firearm.

(E) For purposes of this section and Section 12031, "CCW" means "carry concealed weapons."

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's

privilege to carry a concealed firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have his or her privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive those weapons from the United States or this state.

(d) The carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person by duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or transporting these firearms unloaded when going to and from the ranges.

(g) Licensed hunters or fishermen carrying pistols, revolvers, or other firearms capable of being concealed upon the person while engaged in

hunting or fishing, or transporting those firearms unloaded when going to or returning from the hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(j) The carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Article 3 (commencing with Section 12050).

CHAPTER 140

An act to amend Sections 10177 and 10562 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 10177 of the Business and Professions Code is amended to read:

10177. The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of a material false statement or representation concerning his or her designation or certification of special education, credential, trade organization membership, or business, or concerning a business opportunity or a land or subdivision, as defined in Chapter 1 (commencing with Section 11000) of Part 2, offered for sale.

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

(e) Willfully used the term "realtor" or a trade name or insignia of membership in a real estate organization of which the licensee is not a member.

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or has either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked or

suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Has used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

(*l*) (1) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, 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 Government Code.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) 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 the Government Code shall apply to paragraph (1).

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) or the regulations of the Commissioner of Corporations pertaining thereto.

(o) Failed to disclose to the buyer of real property, in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership interest in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee has a special relationship shall be disclosed to the buyer.

(p) Violated Article 6 (commencing with Section 10237).

If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner may not deny the issuance of a real estate license to, or suspend or revoke the real estate license of, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation.

SEC. 2. Section 10562 of the Business and Professions Code is amended to read:

10562. The commissioner may suspend or revoke the license of a mineral, oil, and gas licensee who has done any of the following:

(a) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a mineral, oil, and gas licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 of the Penal Code allowing the licensee 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 or information.

(b) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of a material false statement or representation concerning his or her business or a mineral, oil, or gas property offered for sale.

(c) Willfully disregarded or violated any of the provisions of the Real Estate Law (commencing with Section 10000) or of Chapter 1

(commencing with Section 11000) of Part 2 or of the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a mineral, oil, and gas license.

(e) Willfully used the term "realtor" or a trade name or insigne of membership in a real estate organization of which the licensee is not a member.

(f) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(g) Has used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(h) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

CHAPTER 141

An act to amend Section 2337 of the Family Code, relating to dissolution of marriage.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2337 of the Family Code is amended to read:

2337. (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer service of the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and any minor children as named dependents, so long as the party is eligible to do so. If at any time during this period the party is not eligible to maintain that coverage, the party shall, at the party's sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available. To the extent that coverage is not available, the party shall be responsible to pay, and shall demonstrate to the court's satisfaction the ability to pay, for the health and medical care for the other party and the minor children, to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status, and shall otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage. For purposes of this subdivision, "health and medical insurance coverage" includes any coverage for which the parties are eligible under any group or individual health or other medical plan, fund, policy, or program.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that the other party would have been entitled to those benefits or elections as the spouse or surviving spouse of the party.

(6) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(7) (A) The court may make an order pursuant to paragraph (3) of subdivision (b) of Section 5600 of the Probate Code, if appropriate, that a party maintain a beneficiary designation for a nonprobate transfer, as described in Section 5000 of the Probate Code, for a spouse or domestic partner for up to one-half of or, upon a showing of good cause, for all of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(B) Except upon a showing of good cause, this paragraph does not apply to any of the following:

(i) A nonprobate transfer described in Section 5000 of the Probate Code that was not created by either party or that was acquired by either party by gift, descent, or devise.

(ii) An irrevocable trust.

(iii) A trust of which neither party is the grantor.

(iv) Powers of appointment under a trust instrument that was not created by either party or of which neither party is a grantor.

(v) The execution and filing of a disclaimer pursuant to Part 8 (commencing with Section 260) of Division 2 of the Probate Code.

(vi) The appointment of a party as a trustee.

(8) In order to preserve the ability of the party to defer the distribution of the Individual Retirement Account or annuity (IRA) established under Section 408 or 408A of the Internal Revenue Code of 1986, as amended, (IRC) upon the death of the other party, the court may require that one-half, or all upon a showing of good cause, of the community interest in any IRA, by or for the benefit of the party, be assigned and transferred to the other party pursuant to Section 408(d)(6) of the Internal Revenue Code. This paragraph does not limit the power granted pursuant to subdivision (g).

(9) Upon a showing that circumstances exist that would place a substantial burden of enforcement upon either party's community property rights or would eliminate the ability of the surviving party to enforce his or her community property rights if the other party died before the division and distribution or compliance with any court-ordered payment of any community property interest therein, including, but not limited to, a situation in which preemption under federal law applies to an asset of a party, or purchase by a bona fide purchaser has occurred, the court may order a specific security interest designed to reduce or

eliminate the likelihood that a postmortem enforcement proceeding would be ineffective or unduly burdensome to the surviving party. For this purpose, those orders may include, but are not limited to, any of the following:

(A) An order that the party provide an undertaking.

(B) An order to provide a security interest by Qualified Domestic Relations Order from that party's share of a retirement plan or plans.

(C) An order for the creation of a trust as defined in paragraph (2) of subdivision (a) of Section 82 of the Probate Code.

(D) An order for other arrangements as may be reasonably necessary and feasible to provide appropriate security in the event of the party's death before judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(E) If a retirement plan is not subject to an enforceable court order for the payment of spousal survivor benefits to the other party, an interim order requiring the party to pay or cause to be paid, and to post adequate security for the payment of, any survivor benefit that would have been payable to the other party on the death of the party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.

(10) Any other condition the court determines is just and equitable.

(d) Prior to, or simultaneously with, entry of judgment granting dissolution of the status of the marriage, all of the following shall occur:

(1) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution, unless joinder is precluded or made unnecessary by Title 1 of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.), as amended (ERISA), or any other applicable law.

(2) To preserve the claims of each spouse in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage, the court shall enter one of the following in connection with the judgment for each retirement plan in which either party is a participant:

(A) An order pursuant to Section 2610 disposing of each party's interest in retirement plan benefits, including survivor and death benefits.

(B) An interim order preserving the nonemployee party's right to retirement plan benefits, including survivor and death benefits, pending entry of judgment on all remaining issues.

(C) An attachment to the judgment granting a dissolution of the status of the marriage, as follows:

EACH PARTY (insert names and addresses) IS PROVISIONALLY AWARDED WITHOUT PREJUDICE AND SUBJECT TO ADJUSTMENT BY A SUBSEQUENT DOMESTIC RELATIONS ORDER, A SEPARATE INTEREST EQUAL TO ONE-HALF OF ALL BENEFITS ACCRUED OR TO BE ACCRUED UNDER THE PLAN (name each plan individually) AS A RESULT OF EMPLOYMENT OF THE OTHER PARTY DURING THE MARRIAGE OR DOMESTIC PARTNERSHIP AND PRIOR TO THE DATE OF SEPARATION. IN ADDITION, PENDING FURTHER NOTICE, THE PLAN SHALL, AS ALLOWED BY LAW, OR IN THE CASE OF A GOVERNMENTAL PLAN, AS ALLOWED BY THE TERMS OF THE PLAN, CONTINUE TO TREAT THE PARTIES AS MARRIED OR DOMESTIC PARTNERS FOR PURPOSES OF ANY SURVIVOR RIGHTS OR BENEFITS AVAILABLE UNDER THE PLAN TO THE EXTENT NECESSARY TO PROVIDE FOR PAYMENT OF AN AMOUNT EQUAL TO THAT SEPARATE INTEREST OR FOR ALL OF THE SURVIVOR BENEFIT IF AT THE TIME OF THE DEATH OF THE PARTICIPANT, THERE IS NO OTHER ELIGIBLE RECIPIENT OF THE SURVIVOR BENEFIT.

(e) The moving party shall promptly serve a copy of any order, interim order, or attachment entered pursuant to paragraph (2) of subdivision (d), and a copy of the judgment granting a dissolution of the status of the marriage, on the retirement or pension plan administrator.

(f) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(g) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

CHAPTER 142

An act to repeal Section 33101 of the Education Code, and to amend Sections 11550, 11552, 11553, 11553.5, 11554, 11555, 11556, 11563.7, 11564, 11565.5, 11569, and 12500 of, and to repeal Sections 8901, 8901.5, 8901.6, 11551, 11551.5, 11552.5, 12000, 12100, 12150, 12300, and 12400 of, the Government Code, relating to public employment.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 33101 of the Education Code is repealed.

SEC. 2. Section 8901 of the Government Code is repealed.

SEC. 3. Section 8901.5 of the Government Code is repealed.

SEC. 4. Section 8901.6 of the Government Code is repealed.

SEC. 5. Section 11550 of the Government Code is amended to read:

11550. (a) Effective January 1, 1988, an annual salary of ninety-one thousand fifty-four dollars ($91,054) shall be paid to each of the following:

(1) Director of Finance.

(2) Secretary of Business, Transportation and Housing.

(3) Secretary of the Resources Agency.

(4) Secretary of California Health and Human Services.

(5) Secretary of State and Consumer Services.

(6) Commissioner of the California Highway Patrol.

(7) Secretary of the Department of Corrections and Rehabilitation.

(8) Secretary of Food and Agriculture.

(9) Secretary of Veterans Affairs.

(10) Secretary of Labor and Workforce Development.

(11) Secretary of Environmental Protection.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 6. Section 11551 of the Government Code is repealed.

SEC. 7. Section 11551.5 of the Government Code is repealed.

SEC. 8. Section 11552 of the Government Code is amended to read:

11552. (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars ($85,402) shall be paid to each of the following:

(1) Commissioner of Financial Institutions.

(2) Commissioner of Corporations.

(3) Director of Transportation.

(4) Real Estate Commissioner.

(5) Director of Social Services.

(6) Director of Water Resources.

(7) Chief Deputy Secretary for Adult Operations of the Department of Corrections and Rehabilitation.

(8) Director of General Services.
(9) Director of Motor Vehicles.
(10) Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation.
(11) Executive Officer of the Franchise Tax Board.
(12) Director of Employment Development.
(13) Director of Alcoholic Beverage Control.
(14) Director of Housing and Community Development.
(15) Director of Alcohol and Drug Programs.
(16) Director of Statewide Health Planning and Development.
(17) Director of the Department of Personnel Administration.
(18) State Director of Health Services.
(19) Director of Mental Health.
(20) Director of Developmental Services.
(21) State Public Defender.
(22) Director of the California State Lottery.
(23) Director of Fish and Game.
(24) Director of Parks and Recreation.
(25) Director of Rehabilitation.
(26) Director of the Office of Administrative Law.
(27) Director of Consumer Affairs.
(28) Director of Forestry and Fire Protection.
(29) The Inspector General pursuant to Section 6125 of the Penal Code.
(30) Director of Child Support Services.
(31) Director of Industrial Relations.
(32) Chief Deputy Secretary for Adult Programs in the Department of Corrections and Rehabilitation.
(33) Director of Toxic Substances Control.
(34) Director of Pesticide Regulation.
(35) Director of Managed Health Care.
(36) Director of Environmental Health Hazard Assessment.
(37) Director of Technology.
(38) Director of Homeland Security.
(39) Director of California Bay-Delta Authority.
(40) Director of California Conservation Corps.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 9. Section 11552.5 of the Government Code is repealed.

SEC. 10. Section 11553 of the Government Code is amended to read:

11553. (a) Effective January 1, 1988, an annual salary of eighty-one thousand six hundred thirty-five dollars ($81,635) shall be paid to each of the following:

(1) Chairperson of the Unemployment Insurance Appeals Board.

(2) Chairperson of the Agricultural Labor Relations Board.

(3) President of the Public Utilities Commission.

(4) Chairperson of the Fair Political Practices Commission.

(5) Chairperson of the Energy Resources Conservation and Development Commission.

(6) Chairperson of the Public Employment Relations Board.

(7) Chairperson of the Workers' Compensation Appeals Board.

(8) Administrative Director of the Division of Industrial Accidents.

(9) Chairperson of the State Water Resources Control Board.

(10) Chairperson and each member of the California Integrated Waste Management Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 11. Section 11553.5 of the Government Code is amended to read:

11553.5. (a) Effective January 1, 1988, an annual salary of seventy-nine thousand one hundred twenty-two dollars ($79,122) shall be paid to the following:

(1) Member of the Agricultural Labor Relations Board.

(2) Member of the State Energy Resources Conservation and Development Commission.

(3) Member of the Public Utilities Commission.

(4) Member of the Public Employment Relations Board.

(5) Member of the Unemployment Insurance Appeals Board.

(6) Member of the Workers' Compensation Appeals Board.

(7) Member of the State Water Resources Control Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 12. Section 11554 of the Government Code is amended to read:

11554. (a) Effective January 1, 1988, an annual salary of seventy-five thousand three hundred fifty-four dollars ($75,354) shall be paid to each of the following:

(1) Director of Conservation.

(2) Director of Community Services and Development.

(3) State Architect.

(4) Director of Fair Employment and Housing.

(5) Director of the Office of Emergency Services.

(6) Director of the California Department of Aging.

(7) State Fire Marshal.

(8) Director of Boating and Waterways.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 13. Section 11555 of the Government Code is amended to read:

11555. (a) Effective January 1, 1988, an annual salary of seventy-one thousand five hundred eighty-seven dollars ($71,587) shall be paid to the following:

(1) Chairperson of the Board of Parole Hearings.

(2) Chairperson of the Occupational Safety and Health Appeals Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 14. Section 11556 of the Government Code is amended to read:

11556. (a) Effective January 1, 1988, an annual salary of sixty-nine thousand seventy-six dollars ($69,076) shall be paid to each of the following:

(1) Commissioner of the Board of Parole Hearings.

(2) Member of the Occupational Safety and Health Appeals Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 15. Section 11563.7 of the Government Code is amended to read:

11563.7. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Personnel Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 16. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Air Resources Board, provided each member devotes a minimum of 60 hours per month to state board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 17. Section 11565.5 of the Government Code is amended to read:

11565.5. Notwithstanding Sections 11553, 11553.5, 11555, 11556, 11563.7, and 11564, with respect to any salary increase made after January 1, 1997, for nonelected members of state boards and commissions specified in Sections 11553, 11553.5, 11555, 11556, 11563.7, and 11564, the annual compensation provided by these sections shall not automatically increase but may be increased in any fiscal year in which there is a general increase in the salary ranges and rates for state civil service classifications. The amount of the increase, as determined by the Department of Personnel Administration and subject to the appropriation of funds by the Legislature in the annual Budget Act, shall not exceed the percentage of the general increase in the salary rates and ranges for classifications provided during that fiscal year for state employees designated as managerial.

SEC. 18. Section 11569 of the Government Code is amended to read:

11569. Notwithstanding the foregoing provisions of this chapter or of any statute specifying the salary to be paid to any state officer, in any fiscal year for which the Legislature appropriates additional funds to augment the salaries paid to state officers whose salaries are specified by statute, each such statutory salary for that fiscal year shall be the amount so specified plus an amount which constitutes an equal percentage increase for each officer. No such increase shall be paid to any officer whose salary is subject to Section 68203 of the Government Code. If any constitutional provision prevents an increase during the term of office of a position, the increase shall not become operative as to that position before the commencement of the next succeeding term of office, as provided in Section 11567.

The secretaries and other personnel of the Governor appointed pursuant to Section 12001 shall be regarded as state officers for purposes of determining the salaries of state officers pursuant to this section and the Governor may fix the salary of each person at an amount not to exceed the maximum for such position set forth in Section 12001 plus a percentage equal to the increase authorized for statutory salaries under this section.

SEC. 19. Section 12000 of the Government Code is repealed.

SEC. 20. Section 12100 of the Government Code is repealed.

SEC. 21. Section 12150 of the Government Code is repealed.

SEC. 22. Section 12300 of the Government Code is repealed.

SEC. 23. Section 12400 of the Government Code is repealed.

SEC. 24. Section 12500 of the Government Code is amended to read:

12500. The annual salary of the Attorney General includes all services rendered ex officio as member of any board or commission.

CHAPTER 143

An act to add Section 42298 to the Public Resources Code, relating to recycling.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 42298 is added to the Public Resources Code, to read:

42298. A plastic bag that is labeled with a term specified in subdivision (a) of Section 42357 and that meets the current ASTM

standard specified for that term, as defined in Section 42356, is exempt from the requirements of this chapter.

CHAPTER 144

An act to amend Section 22020 of, and to add Section 22001.5 to, the Public Contract Code, relating to Uniform Public Construction Cost Accounting Act.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22001.5 is added to the Public Contract Code, to read:

22001.5. On or before January 1, 2009, the Controller shall send a notice to all public agencies describing the provisions of this chapter and the benefits of using its provisions. This notice shall also be included in any notification issued by the Controller pursuant to Section 22020.

SEC. 2. Section 22020 of the Public Contract Code is amended to read:

22020. In accordance with procedures and standards adopted pursuant to Section 22017, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 22032, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars ($15,000). Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification to all public agencies of the adjustment. That notification shall also describe the provisions of this chapter and the benefits of using its provisions.

CHAPTER 145

An act to amend Section 25365 of the Government Code, relating to county property.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25365 of the Government Code is amended to read:

25365. (a) The board of supervisors may, by a four-fifths vote, grant, convey, quitclaim, assign, or otherwise transfer to the state or to any community redevelopment agency, housing authority, community development commission, surplus property authority, federal agency, city, school district, county board of education, special district, joint powers agency, or any other public agency within the county or exchange with those public agencies, any real or personal property, or interest therein belonging to the county upon the terms and conditions as are agreed upon and without complying with any other provisions of this code, if the property or interest therein to be granted and conveyed or quitclaimed is not required for county use or in the event of an exchange, the property to be acquired is required for county use.

(b) The board of supervisors may also, by a four-fifths vote, exchange real property with any person, firm, or corporation, for the purpose of removing defects in the title to real property owned by the county, or where the real property to be exchanged is not required for county use and the property to be acquired is required for county use. If the real properties to be exchanged are not of equal value, either party to the exchange may contribute cash or other real property assets, acceptable to the other party, to balance the transaction. The value of any private real property exchanged shall be equal to, or greater than, 75 percent of the value of the county property offered in exchange. The cash or other real property assets to be added to balance the transaction shall not be greater than 25 percent of the value of the county property proposed for exchange.

(c) Unless the public agency to which the property is transferred pursuant to this section and the public agency transferring the property are governed by the same county board of supervisors, the transferring board of supervisors shall publish a notice of its intended action pursuant to Section 6061 at least one week prior thereto in a newspaper of general circulation published in the county.

CHAPTER 146

An act to amend Section 68616 of the Government Code, relating to courts.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 68616 of the Government Code is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed or severed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

CHAPTER 147

An act to amend Section 5018.1 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5018.1 of the Public Resources Code is amended to read:

5018.1. (a) Notwithstanding any other provision of law, the Department of Finance may delegate to the department the right to exercise the same authority granted to the Division of the State Architect and the Real Estate Services Division in the Department of General Services, to plan, design, construct, and administer contracts and professional services for legislatively approved capital outlay projects.

(b) Any right afforded to the department pursuant to subdivision (a) to exercise project planning, design, construction, and administration of contracts and professional services may be revoked, in whole or in part, by the Department of Finance at any time prior to January 1, 2014.

(c) This section 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.

CHAPTER 148

An act to amend Sections 14257, 14405, 14408, 14453, 14456, 14750, 14807, and 14950 of the Financial Code, relating to credit unions.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14257 of the Financial Code is amended to read:

14257. Investigation and examination reports prepared by the commissioner's duly designated representatives shall not be public records. The reports may be disclosed to the officers, directors, members of the supervisory committee, members of the credit committee, and key management personnel of the credit union that is the subject of a report for the purpose of corrective action by those persons. The examination report may also be disclosed to internal and external auditors and attorneys that are retained by the subject credit union, but only to the extent necessary for the auditors and attorneys to perform work related to issues addressed in the examination report. The disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.

SEC. 2. Section 14405 of the Financial Code is amended to read:

14405. Every credit union may:

(a) (1) Become a member of any organization or organizations composed of credit unions, credit associations, chambers of commerce, financial institutions, community economic development entities, or business or trade organizations.

(2) Become a member of any nonprofit organization approved by the board of directors.

(b) Pay dues and assessments as may be levied upon it by any organization of which it is a member.

SEC. 3. Section 14408 of the Financial Code is amended to read:

14408. No credit union shall make any gift or donation having a value in excess of twenty-five thousand dollars ($25,000) unless the gift or donation is in the best interest of the credit union, is approved by a resolution of the board of directors and is in conformance with any regulation or order that the commissioner may issue. The resolution of the board of directors approving the gift or donation shall identify the recipient of the gift or donation, state the value of the gift or donation, and specify the basis for the board's determination that the gift or donation is in the best interests of the credit union. The board may establish a budget for gifts and donations and authorize appropriate officials of the credit union to select recipients and disburse budgeted funds among those recipients.

SEC. 4. Section 14453 of the Financial Code is amended to read:

14453. The board of directors of every credit union shall have the general management of the affairs, funds, and records of the credit union. The board may appoint an executive committee of no fewer than three directors, to serve at its pleasure, to act as expressly approved by the board of directors in accordance with the laws and regulations.

SEC. 5. Section 14456 of the Financial Code is amended to read:

14456. Unless the bylaws expressly reserve any or all of the following duties to the members, the directors have all of the following special duties:

(a) To act upon all applications for membership. The directors may delegate the power to approve applications for new membership to: (1) the chairperson of a membership committee or to an executive committee; or (2) any officer, director, committee member, or employee, pursuant to a written membership plan adopted by the board of directors, provided the board of directors reviews at least quarterly a report of membership applications approved by an officer, director, committee member, or employee.

(b) To expel members for any of the following causes:

(1) Conviction of a criminal offense involving moral turpitude.

(2) Failure to carry out contracts, agreements or obligations with the credit union.

(3) Refusal to comply with the provisions of this division or of the bylaws.

Any members who are expelled by the board of directors have the right to appeal therefrom to the members, in which event, after hearing, the order of suspension may be revoked by a two-thirds vote of the members present at a special meeting to consider the matter.

(c) To determine from time to time the interest rate on obligations with members and to authorize the payment of interest refunds to borrowing members.

(d) To fix the maximum number of shares which may be held by, and, in accordance with Section 15100, establish the maximum amount of obligations which may be entered into with, any one member.

(e) To declare dividends on shares in accordance with the credit union's written capital structure policy and to determine the interest rate or rates which will be paid on certificates for funds.

(f) To amend the bylaws, except where membership approval is required.

(g) To fill vacancies in the credit committee, and to temporarily fill vacancies caused by the suspension of any or all members of the credit committee, pending a meeting of the members to determine whether to affirm the suspension and vacate the office, or to reinstate the member or members.

(h) To direct the deposit or investment of funds, except loans to members.

(i) To designate alternate members of the credit committee who shall serve in the absence or inability of the regular members to perform their duties.

(j) To perform or authorize any action not inconsistent with law or regulation and not specifically reserved by the bylaws for the members, and to perform any other duties as the bylaws may prescribe.

SEC. 6. Section 14750 of the Financial Code is amended to read:

14750. Except as provided in Section 14950, any officer, director, member of a committee of a credit union, loan officer appointed pursuant to Section 14602, or employee who knowingly permits the creation of an obligation with, or participates in the creation of an obligation with, a nonmember of the credit union, or knowingly permits the creation of an obligation or participates in the creation of an obligation which is not made in conformity with the requirements of this division, is guilty of a misdemeanor.

SEC. 7. Section 14807 of the Financial Code is amended to read:

14807. Any member may withdraw from membership in the credit union at any time. A withdrawing member may be required to give 60 days' notice of intention to withdraw shares and 30 days' notice of intention to withdraw certificates for funds except when a different period of notice is required by the commissioner for the withdrawal of shares or share certificates that may be established by the board of directors pursuant to Section 14862.

SEC. 8. Section 14950 of the Financial Code is amended to read:

14950. (a) Every credit union may enter into obligations with its members upon the approval of the credit committee or, in the alternative, the credit manager, subject to the terms and conditions established by the board of directors pursuant to Section 15100.

(b) (1) The board of directors of a credit union shall adopt a policy governing the acceptance by the credit union of notes receivable from nonmembers as consideration for the sale of assets owned by the credit union through bona fide transactions.

(2) No credit union may accept notes receivable from nonmembers as consideration for the sale of assets owned by the credit union except in accordance with a policy adopted by the board of directors pursuant to paragraph (1).

(3) Transactions subject to this subdivision shall not be deemed to be loans to nonmembers for purposes of Section 14750.

(c) Notwithstanding subdivision (a), a credit union may permit a nonmember to participate in an obligation or extension of credit to a member as a joint applicant or co-obligor. An obligation or extension

of credit made pursuant to this subdivision shall not be deemed a violation of subdivision (b) of Section 14800. Except as otherwise permitted by statute or regulation, the credit union shall not extend any other benefit or service of the credit union to the nonmember solely as a result of participation as a joint applicant or co-obligor unless the nonmember is thereafter admitted to membership.

CHAPTER 149

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25608 of the Business and Professions Code is amended to read:

25608. (a) Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if any of the following applies:

(1) The alcoholic beverage possessed, consumed, or sold, pursuant to a license obtained under this division, is wine that is produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

(2) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(3) The public schoolhouse is surplus school property and the grounds thereof are leased to a lessee which is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds thereof are located in an unincorporated area and are leased to a lessee which is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted thereon by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational

purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(4) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this subdivision, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(5) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built on property owned by a community college district and leased to a nonprofit organization which is a public benefit corporation formed under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. As used in this subdivision, "performing arts facility" means an auditorium with more than 300 permanent seats.

(6) The alcoholic beverage is wine for sacramental or other religious purposes and is used only during authorized religious services held on or before January 1, 1995.

(7) The alcoholic beverages are acquired, possessed, or used during an event at a community center owned by a community services district and the event is not held at a time when students are attending a public school-sponsored activity at the center.

(8) The alcoholic beverage is wine which is acquired, possessed, or used during an event sponsored by a community college district or an organization operated for the benefit of the community college district where the college district maintains both an instructional program in viticulture on no less than five acres of land owned by the district and an instructional program in enology, which includes sales and marketing.

(9) The alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium of a community college located in a county with a population of less than 250,000 inhabitants, and the baseball game is conducted pursuant to a contract between the community college district and a professional sports organization.

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this subdivision, "events" means fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event. "Events" does not include football games or other athletic contests sponsored by any college or public community college. This subdivision shall not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

(11) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license obtained under this division, for an event during the weekend or at other times when pupils are not on the grounds of an overnight retreat facility owned and operated by a county office of education in a county of the 18th class.

(12) The grounds of the public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property that has been developed and is used for residential facilities or housing that is offered for rent, lease, or sale exclusively to faculty or staff of a public school or community college.

(13) The grounds of a public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property of a community college that is leased, licensed, or otherwise provided for use as a water conservation demonstration garden and community passive recreation resource by a joint powers agency comprised of public agencies, including the community college, and the event at which the alcoholic beverage is acquired, possessed, used, or consumed is conducted pursuant to a written policy adopted by the governing body of the joint powers agency and no public funds are used for the purchase or provision of the alcoholic beverage.

(14) The alcoholic beverage is beer or wine acquired, possessed, used, sold, or consumed only in connection with a course of instruction, sponsored dinner, or meal demonstration given as part of a culinary arts program at a campus of a California Community College and the person has been authorized to acquire, possess, use, sell, or consume the beer or wine by the governing body or other administrative head of the school.

(b) Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of the Education Code.

CHAPTER 150

An act to amend Section 40250 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 40250 of the Vehicle Code is amended to read:

40250. (a) Except where otherwise specifically provided, a violation of a statute, regulation, or ordinance governing the evasion of tolls on toll facilities under this code, under a federal or state statute or regulation, or under an ordinance enacted by a local authority including a joint powers authority, or a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code is subject to a civil penalty. The enforcement of a civil penalty is governed by the civil administrative procedures set forth in this article.

(b) Except as provided in Section 40264, the registered owner, driver, rentee, or lessee of a vehicle cited for a toll evasion violation of a toll facility, under an applicable statute, regulation, or ordinance shall be jointly and severally liable for the toll evasion penalty imposed under this article, unless the owner can show that the vehicle was used without the express or implied consent of that person. A person who pays a toll evasion penalty, a civil judgment, costs, or administrative fees pursuant to this article has the right to recover the same from the driver, rentee, or lessee.

(c) The driver of a vehicle who is not the vehicle owner but who uses or operates the vehicle with the express or implied permission of the owner is the agent of the owner to receive a notice of a toll evasion violation served in accordance with this article and may contest the notice of violation.

(d) If the driver of the vehicle is in violation of a statute, regulation, or ordinance governing toll evasion violations, and if the driver is arrested pursuant to Article 1 (commencing with Section 40300) of Chapter 2, this article does not apply.

(e) For the purposes of this article, the following definitions apply:

(1) "Issuing agency" is an entity, public or private, authorized to collect tolls.

(2) "Registered owner" is either of the following:

(A) A person described in Section 505.

(B) A person registered as the owner of the vehicle by the appropriate agency or authority of another state, the District of Columbia, or a territory or possession of the United States.

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 allow an issuing agency or a processing agency to send a copy of a notice of toll evasion to the registered owner of a vehicle that

is registered in another state, the District of Columbia, or in a territory or possession of the United States at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 151

An act to amend Section 1791 of, and to add Section 1795.8 to, the Civil Code, relating to consumer warranties.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1791 of the Civil Code, as amended by Section 62 of Chapter 405 of the Statutes of 2002, is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or

other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

(t) "Member of the Armed Forces" means a person on full-time active duty in the Army, Navy, Marine Corps, Air Force, National Guard, or Coast Guard. Full-time active duty shall also include active military service at a military service school designated by law or the Adjutant General of the Military Department concerned.

This section shall become operative on January 1, 2008.

SEC. 2. Section 1795.8 is added to the Civil Code, to read:

1795.8. Notwithstanding any other provision of law, this chapter shall apply to a purchase in the United States of a motor vehicle, as defined in paragraph (2) of subdivision (e) of Section 1793.22, with a manufacturer's express warranty by a member of the Armed Forces regardless of in which state his or her motor vehicle is purchased or registered, if both of the following apply:

(a) The member of the Armed Forces purchases a motor vehicle, as defined in paragraph (2) of subdivision (e) of Section 1793.22, with a manufacturer's express warranty from a manufacturer who sells motor vehicles in this state or from an agent or representative of that manufacturer.

(b) The member of the Armed Forces was stationed in or a resident of this state at the time he or she purchased the motor vehicle or at the time he or she filed an action pursuant to this chapter.

CHAPTER 152

An act to amend Section 3041.5 of the Family Code, relating to child custody and visitation.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3041.5 of the Family Code is amended to read:

3041.5. (a) In any custody or visitation proceeding brought under this part, as described in Section 3021, or any guardianship proceeding brought under the Probate Code, the court may order any person who is seeking custody of, or visitation with, a child who is the subject of the proceeding to undergo testing for the illegal use of controlled substances and the use of alcohol if there is a judicial determination based upon a preponderance of evidence that there is the habitual, frequent, or continual illegal use of controlled substances or the habitual or continual abuse of alcohol by the parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. This evidence may include, but may not be limited to, a conviction within the last five years for the illegal use or possession of a controlled substance. The court shall order the least intrusive method of testing for the illegal use of controlled substances or the habitual or continual abuse of alcohol by either or both parents, the legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. If substance abuse testing is ordered by the court, the testing shall be performed in conformance with procedures and standards established by the United States Department of Health and Human Services for drug testing of federal employees. The parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship who has undergone drug testing shall have the right to a hearing, if requested, to challenge a positive test result. A positive test result, even if challenged and upheld, shall not, by itself, constitute grounds for an adverse custody or guardianship decision. Determining the best interests of the child requires weighing all relevant factors. The court shall also consider any reports provided to the court pursuant to the Probate Code. The results of this testing shall be confidential, shall be maintained as a sealed record in the court file, and may not be released to any person except the court, the parties, their attorneys, the Judicial Council (until completion of its authorized study of the testing process) and any person to whom the court expressly grants access by written order made with prior notice to all parties. Any person

who has access to the test results may not disseminate copies or disclose information about the test results to any person other than a person who is authorized to receive the test results pursuant to this section. Any breach of the confidentiality of the test results shall be punishable by civil sanctions not to exceed two thousand five hundred dollars ($2,500). The results of the testing may not be used for any purpose, including any criminal, civil, or administrative proceeding, except to assist the court in determining, for purposes of the proceeding, the best interest of the child pursuant to Section 3011, and the content of the order or judgment determining custody or visitation. The court may order either party, or both parties, to pay the costs of the drug or alcohol testing ordered pursuant to this section. As used in this section, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

CHAPTER 153

An act to amend Section 704.720 of the Code of Civil Procedure, relating to homestead exemptions.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 704.720 of the Code of Civil Procedure is amended to read:

704.720. (a) A homestead is exempt from sale under this division to the extent provided in Section 704.800.

(b) If a homestead is sold under this division or is damaged or destroyed or is acquired for public use, the proceeds of sale or of insurance or other indemnification for damage or destruction of the homestead or the proceeds received as compensation for a homestead acquired for public use are exempt in the amount of the homestead exemption provided in Section 704.730. The proceeds are exempt for a period of six months after the time the proceeds are actually received by the judgment debtor, except that, if a homestead exemption is applied

to other property of the judgment debtor or the judgment debtor's spouse during that period, the proceeds thereafter are not exempt.

(c) If the judgment debtor and spouse of the judgment debtor reside in separate homesteads, only the homestead of one of the spouses is exempt and only the proceeds of the exempt homestead are exempt.

(d) If a judgment debtor is not currently residing in the homestead, but his or her separated or former spouse continues to reside in or exercise control over possession of the homestead, that judgment debtor continues to be entitled to an exemption under this article until entry of judgment or other legally enforceable agreement dividing the community property between the judgment debtor and the separated or former spouse, or until a later time period as specified by court order. Nothing in this subdivision shall entitle the judgment debtor to more than one exempt homestead. Notwithstanding subdivision (d) of Section 704.710, for purposes of this article, "spouse" may include a separated or former spouse consistent with this subdivision.

CHAPTER 154

An act to add Section 15819.70 to the Government Code, and to amend Section 4 of Chapter 252 of the Statutes of 1998, relating to public works, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares both of the following:

(a) Due to contract bids for the three Southern California veterans' homes exceeding the original amount estimated by the Department of Veterans Affairs, additional funding is needed for the construction and completion of new veterans' homes in Fresno and Shasta Counties.

(b) Therefore, thirty million dollars ($30,000,000) in lease-revenue bonds, as provided by this act, is necessary for the construction and completion of new veterans' homes in Fresno and Shasta Counties.

SEC. 2. Section 15819.70 is added to the Government Code, to read:

15819.70. (a) (1) There is hereby appropriated thirty million dollars ($30,000,000) from the Public Buildings Construction Fund to the Department of Veterans Affairs for the acquisition, design, construction,

establishment, equipping, renovation, or expansion of the veterans' homes specified in Section 15819.60.

(2) The State Public Works Board may issue lease-revenue bonds, notes, or bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the acquisition, design, construction, establishment, equipping, renovation, or expansion of the veterans' homes specified in Section 15819.60.

(3) The Department of Veterans Affairs is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the scheduled projects.

(b) The amounts specified in subdivision (a) shall be available, in addition to any federal funds or other state funds available, for the acquisition, design, construction, establishment, equipping, renovation, or expansion of the veterans' homes specified in Section 15819.60.

(c) The issuance of bonds or notes under this section is contingent upon priority 1 placement on the United States Department of Veterans Affairs State Home Grant Program Priority List.

(d) In anticipation of federal matching share funding available pursuant to the State Veterans' Home Assistance Improvement Act of 1977 (38 U.S.C. Sec. 8131 et seq.), the board and the Department of Veterans Affairs may obtain interim financing for the project costs authorized in Section 15819.60 from any appropriate source, including, but not limited to, the Pooled Money Investment Account pursuant to Sections 16312 and 16313.

(e) In the event that any project authorized by Section 15819.60 and given priority 1 status on the United States Department of Veterans Affairs State Home Grant Program Priority List is ready to proceed to bid but there are insufficient funds in the federal appropriation, an amount equal to the anticipated federal grant, as shown on the most current participation document, shall be additionally appropriated from the Public Buildings Construction Fund to the Department of Veterans Affairs. As the federal funds become available and are received, they shall be used to first reimburse any interim financing, as authorized by subdivision (d), that are still outstanding for those projects. If no interim financing is outstanding, the funds shall first be used to redeem or defease any bonds issued for those projects, and secondly to offset debt service payments.

(f) In the event that the bonds authorized for projects in Section 15819.60 are not sold, the Department of Veterans Affairs shall commit a sufficient portion of its current support appropriation, as determined by the Department of Finance, to repay any interim financing. It is the intent of the Legislature that this commitment be made until all interim

financing is repaid either through the proceeds from the sale of bonds or from an appropriation.

(g) (1) Notwithstanding Section 13340, all funds appropriated pursuant to this section shall be continuously appropriated to the Department of Veterans Affairs for the projects authorized by Section 15819.60.

(2) In addition to the funds appropriated pursuant to this section, the federal matching funds available pursuant to the State Veterans' Home Assistance Improvement Act of 1977 (38 U.S.C. Sec. 8131 et seq.) are hereby continuously appropriated to the Department of Veterans Affairs for the projects authorized by Section 15819.60.

(h) The board shall not itself be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (commencing with Section 15800). This subdivision does not exempt any participating agency or department from the requirements of the California Environmental Quality Act, and is intended to be declarative of existing law.

SEC. 3. Section 4 of Chapter 252 of the Statutes of 1998 is amended to read:

Sec. 4. The Director of General Services may enter into only seven design-build contracts pursuant to Sections 2 and 3 of this act. Two of these seven contracts shall be for the new veterans' homes in Fresno and Shasta Counties. Effective July 1, 2009, the provisions of Sections 2 and 3 of this act shall only remain operative for the seven design-build projects specified in this section.

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 equip, design, and construct various veterans' homes at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 155

An act to amend Section 19582 of the Business and Professions Code, relating to horse racing.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19582 of the Business and Professions Code is amended to read:

19582. (a) (1) Violations of Section 19581, as determined by the board, are punishable as set forth in regulations adopted by the board.

(2) The board may classify violations of Section 19581 based upon each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime.

(3) (A) The board may provide for the suspension of a license for not more than three years, except as provided in subdivision (b), or a monetary penalty of not more than one hundred thousand dollars ($100,000), or both, and disqualification from purses, for a violation of Section 19581.

(B) The actual amount of the monetary penalty imposed pursuant to this paragraph shall be determined only after due consideration has been given to all the facts, circumstances, acts, and intent of the licensee, and shall not be solely based on the trainer-insurer rule, as established in Sections 1843 and 1887 of Title 4 of the California Code of Regulations.

(4) The punishment for second and subsequent violations of Section 19581 shall be greater than the punishment for a first violation of Section 19581 with respect to each class of prohibited drug substances, unless the administrative law judge, in findings of fact and conclusions of law filed with the board, concludes that a deviation from this general rule is justified.

(b) (1) A third violation of Section 19581 during the lifetime of the licensee, determined by the board to be at a class I or class II level, may result in the permanent revocation of the person's license.

(2) The administrative law judge shall, after consideration of the circumstances surrounding a violation specified in paragraph (1), file a decision with the board that includes findings of fact and conclusions of law.

(c) Any person whose license is suspended or revoked pursuant to this section shall not be entitled to receive any material benefit or remuneration in any capacity or from any business activity permitted or allowed by the license during any period of its suspension or revocation.

(d) The penalties provided by this section are in addition to any other civil, criminal, and administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other penalties or sanctions.

CHAPTER 156

An act to amend Sections 17299.8, 19175, and 24447 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17299.8 of the Revenue and Taxation Code is amended to read:

17299.8. The Franchise Tax Board may disallow a deduction under this part to an individual or entity for amounts paid as remuneration for personal services if that individual or entity fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Section 18631 on the date prescribed therefor (determined with regard to any extension of time for filing).

SEC. 2. Section 19175 of the Revenue and Taxation Code is amended to read:

19175. (a) In addition to the penalty imposed by Section 19183 (relating to failure to file information returns), if any person or entity fails to report amounts paid as remuneration for personal services as required under Section 13050 of the Unemployment Insurance Code or Section 18631 on the date prescribed therefor (determined with regard to any extension of time for filing), that person or entity may be liable for a penalty determined under subdivision (b).

(b) For purposes of subdivision (a), the amount determined under this subdivision is the maximum rate under Section 17041 multiplied by the unreported amounts paid as remuneration for personal services.

(c) The penalty imposed by subdivision (a) shall be assessed against that person or entity required to file a return under Section 13050 of the Unemployment Insurance Code or Section 18631.

(d) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

(e) The penalty imposed under subdivision (a) shall be in lieu of the penalty imposed under Section 13052.5 of the Unemployment Insurance Code (relating to unreported compensation). In the event that a penalty is imposed under this section and Section 13052.5 of the Unemployment Insurance Code, only the penalty imposed under Section 13052.5 of the Unemployment Insurance Code shall apply.

SEC. 3. Section 24447 of the Revenue and Taxation Code is amended to read:

24447. The Franchise Tax Board may disallow a deduction under this part to an individual or entity for amounts paid as remuneration for personal services if that individual or entity fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Section 18631 on the date prescribed therefor (determined with regard to any extension of time for filing).

CHAPTER 157

An act to add Section 529.7 to the Water Code, relating to water.

[Approved by Governor July 27, 2007. Filed with Secretary of State July 27, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 529.7 is added to the Water Code, to read:

529.7. This article does not limit the authority of a water purveyor, including, but not limited to, an urban water supplier that promotes conservation through volumetric water pricing, to determine and impose a rate, fee, or charge in addition to the charge for the actual volume of metered water delivered.

CHAPTER 158

An act to amend Section 12517.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12517.2 of the Vehicle Code is amended to read:

12517.2. (a) Applicants for an original or renewal certificate to drive a schoolbus, school pupil activity bus, youth bus, general public paratransit vehicle, or farm labor vehicle shall submit a report of a medical examination of the applicant given not more than two years

prior to the date of the application by a physician licensed to practice medicine, a licensed advanced practice registered nurse qualified to perform a medical examination, or a licensed physician assistant. The report shall be on a form approved by the department, the Federal Highway Administration, or the Federal Aviation Administration.

(b) Schoolbus drivers, within the same month of reaching 65 years of age and each 12th month thereafter, shall undergo a medical examination, pursuant to Section 12804.9, and shall submit a report of that medical examination on a form as specified in subdivision (a).

CHAPTER 159

An act to amend Sections 9000, 9100, 9102, 9103, 9104, 9250, 9353, 19000, 19011, 19022, 19023, 19025, 19040, 19050, 19051, 19052, 19053, 19100, 19103, 19104, 19150, 19151, 19154, 19201, 19202, 19203, 19252, 19255, and 19304 of the Probate Code, relating to estates and trusts.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 9000 of the Probate Code is amended to read:

9000. As used in this division:

(a) "Claim" means a demand for payment for any of the following, whether due, not due, accrued or not accrued, or contingent, and whether liquidated or unliquidated:

(1) Liability of the decedent, whether arising in contract, tort, or otherwise.

(2) Liability for taxes incurred before the decedent's death, whether assessed before or after the decedent's death, other than property taxes and assessments secured by real property liens.

(3) Liability of the estate for funeral expenses of the decedent.

(b) "Claim" does not include a dispute regarding title of a decedent to specific property alleged to be included in the decedent's estate.

(c) "Creditor" means a person who may have a claim against estate property.

SEC. 2. Section 9100 of the Probate Code is amended to read:

9100. (a) A creditor shall file a claim before expiration of the later of the following times:

(1) Four months after the date letters are first issued to a general personal representative.

(2) Sixty days after the date notice of administration is mailed or personally delivered to the creditor. Nothing in this paragraph extends the time provided in Section 366.2 of the Code of Civil Procedure.

(b) A reference in another statute to the time for filing a claim means the time provided in paragraph (1) of subdivision (a).

(c) Nothing in this section shall be interpreted to extend or toll any other statute of limitations or to revive a claim that is barred by any statute of limitations. The reference in this subdivision to a "statute of limitations" includes Section 366.2 of the Code of Civil Procedure.

SEC. 3. Section 9102 of the Probate Code is amended to read:

9102. A claim that is filed before expiration of the time for filing the claim is timely even if acted on by the personal representative or by the court after expiration of the time for filing claims.

SEC. 4. Section 9103 of the Probate Code is amended to read:

9103. (a) Upon petition by a creditor or the personal representative, the court may allow a claim to be filed after expiration of the time for filing a claim provided in Section 9100 if either of the following conditions is satisfied:

(1) The personal representative failed to send proper and timely notice of administration of the estate to the creditor, and that petition is filed within 60 days after the creditor has actual knowledge of the administration of the estate.

(2) The creditor had no knowledge of the facts reasonably giving rise to the existence of the claim more than 30 days prior to the time for filing a claim as provided in Section 9100, and the petition is filed within 60 days after the creditor has actual knowledge of both of the following:

(A) The existence of the facts reasonably giving rise to the existence of the claim.

(B) The administration of the estate.

(b) Notwithstanding subdivision (a), the court shall not allow a claim to be filed under this section after the court makes an order for final distribution of the estate.

(c) The court may condition the claim on terms that are just and equitable, and may require the appointment or reappointment of a personal representative if necessary. The court may deny the creditor's petition if a payment to general creditors has been made and it appears that the filing or establishment of the claim would cause or tend to cause unequal treatment among creditors.

(d) Regardless of whether the claim is later established in whole or in part, payments otherwise properly made before a claim is filed under this section are not subject to the claim. Except to the extent provided

in Section 9392 and subject to Section 9053, the personal representative or payee is not liable on account of the prior payment. Nothing in this subdivision limits the liability of a person who receives a preliminary distribution of property to restore to the estate an amount sufficient for payment of the distributee's proper share of the claim, not exceeding the amount distributed.

(e) Notice of hearing on the petition shall be given as provided in Section 1220.

(f) Nothing in this section authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

SEC. 5. Section 9104 of the Probate Code is amended to read:

9104. (a) Subject to subdivision (b), if a claim is filed within the time provided in this chapter, the creditor may later amend or revise the claim. The amendment or revision shall be filed in the same manner as the claim.

(b) An amendment or revision may not be made to increase the amount of the claim after the time for filing a claim has expired. An amendment or revision to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision.

(c) An amendment or revision may not be made for any purpose after the earlier of the following times:

(1) The time the court makes an order for final distribution of the estate.

(2) One year after letters are first issued to a general personal representative. This paragraph does not extend the time provided by Section 366.2 of the Code of Civil Procedure or authorize allowance or approval of a claim barred by that section.

SEC. 6. Section 9250 of the Probate Code is amended to read:

9250. (a) When a claim is filed, the personal representative shall allow or reject the claim in whole or in part.

(b) The allowance or rejection shall be in writing. The personal representative shall file the allowance or rejection with the court clerk and give notice to the creditor as provided in Part 2 (commencing with Section 1200) of Division 3, together with a copy of the allowance or rejection.

(c) The allowance or rejection shall contain the following information:

(1) The name of the creditor.

(2) The total amount of the claim.

(3) The date of issuance of letters.

(4) The date of the decedent's death.

(5) The estimated value of the decedent's estate.

(6) The amount allowed or rejected by the personal representative.

(7) Whether the personal representative is authorized to act under the Independent Administration of Estates Act (Part 6 (commencing with Section 10400)).

(8) A statement that the creditor has 90 days in which to act on a rejected claim.

(d) The Judicial Council may prescribe an allowance or rejection form, which may be part of the claim form. Use of a form prescribed by the Judicial Council is deemed to satisfy the requirements of this section.

(e) This section does not apply to a demand the personal representative elects to treat as a claim under Section 9154.

SEC. 7. Section 9353 of the Probate Code is amended to read:

9353. (a) Regardless of whether the statute of limitations otherwise applicable to a claim will expire before or after the following times, a claim rejected in whole or in part is barred as to the part rejected unless, within the following times, the creditor commences an action on the claim or the matter is referred to a referee or to arbitration:

(1) If the claim is due at the time the notice of rejection is given, 90 days after the notice is given.

(2) If the claim is not due at the time the notice of rejection is given, 90 days after the claim becomes due.

(b) The time during which there is a vacancy in the office of the personal representative shall be excluded from the period determined under subdivision (a).

SEC. 8. Section 19000 of the Probate Code is amended to read:

19000. As used in this part:

(a) "Claim" means a demand for payment for any of the following, whether due, not due, accrued or not accrued, or contingent, and whether liquidated or unliquidated:

(1) Liability of the deceased settlor, whether arising in contract, tort, or otherwise.

(2) Liability for taxes incurred before the deceased settlor's death, whether assessed before or after the deceased settlor's death, other than property taxes and assessments secured by real property liens.

(3) Liability for the funeral expenses of the deceased settlor.

(b) "Claim" does not include a dispute regarding title to specific property alleged to be included in the trust estate.

(c) "Creditor" means a person who may have a claim against the trust property.

(d) "Trust" means a trust described in Section 18200, or, if a portion of a trust, that portion that remained subject to the power of revocation at the deceased settlor's death.

(e) "Deceased settlor" means a deceased person who, at the time of his or her death, held the power to revoke the trust in whole or in part.

(f) "Debts" means all claims, as defined in subdivision (a), all expenses of administration, and all other proper charges against the trust estate, including taxes.

SEC. 9. Section 19011 of the Probate Code is amended to read:

19011. (a) The Judicial Council may prescribe the form and contents of the petition, notice, claim form, and allowance or rejection form to be used pursuant to this part. The allowance or rejection form may be part of the claim form.

(b) Any claim form adopted by the Judicial Council shall inform the creditor that the claim must be filed with the court and a copy mailed or delivered to the trustee. The claim form shall include a proof of mailing or delivery of a copy of the claim to the trustee, which may be completed by the claimant.

SEC. 10. Section 19022 of the Probate Code is amended to read:

19022. (a) A proceeding under this chapter is commenced by filing a verified petition stating facts showing that the petition is authorized under this chapter and the grounds of the petition.

(b) The petition shall set forth a description of the trust and the names of creditors with respect to which action is requested and a description of each claim, together with the requested determination by the court with respect to the claims, provided, however, that this section does not require the filing of a copy of the trust or disclosure of the beneficial interests of the trust. That petition shall also set forth the beneficiaries of the trust, those claimants whose interest in the trust may be affected by the petition, and the trustees of any other trust to which an allocation of liability may be approved by the court pursuant to the petition.

(c) The clerk shall set the matter for hearing.

SEC. 11. Section 19023 of the Probate Code is amended to read:

19023. At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of the hearing and a copy of the petition to be served on each of the creditors whose interests in the estate may be affected by the petition in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

SEC. 12. Section 19025 of the Probate Code is amended to read:

19025. (a) If any creditor, beneficiary, or trustee fails timely to file a written pleading upon notice, then the case is at issue, notwithstanding the failure. The case may proceed on the petition and written statements filed by the time of the hearing, and no further pleadings by other persons are necessary. The creditor, beneficiary, or trustee who failed timely to file a written pleading upon notice may not participate further in the

proceeding for the determination requested, and that creditor, beneficiary, or trustee shall be bound by the decision in the proceeding.

(b) The court's order, when final, shall be conclusive as to the liability of the trust property with respect to the claims at issue in the petition. In the event of a subsequent administration of the estate of the deceased settlor, that order shall be binding on the personal representative of the estate of the deceased settlor as well as all creditors and beneficiaries who had notice of the petition.

SEC. 13. Section 19040 of the Probate Code is amended to read:

19040. (a) Publication of notice pursuant to this section shall be for at least 15 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting the first and last publication dates as part of the five-day period, are sufficient. Notice shall be published in a newspaper of general circulation in the city, county, or city and county in this state where the deceased settlor resided at the time of death, or if none, in the city, county, or city and county in this state wherein trust property was located at the time of the settlor's death, or if none, in the city, county, or city and county in this state wherein the principal place of administration of the trust was located at the time of the settlor's death. If there is no newspaper of general circulation published in the applicable city, county, or city and county, notice shall be published in a newspaper of general circulation published in this state nearest to the applicable city, county, or city and county seat, and which is circulated within the applicable city, county, or city and county. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within the community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

NOTICE TO CREDITORS
OF _____

#_____
SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at _____,

and mail a copy to _____, as trustee of the trust dated ____ wherein the decedent was the settlor, at _____, within the later of four months after ____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice is mailed or personally delivered to you. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

(name and address of trustee or attorney)

(c) An affidavit showing due publication of notice shall be filed with the clerk upon completion of the publication. The affidavit shall contain a copy of the notice, and state the date of its first publication.

SEC. 14. Section 19050 of the Probate Code is amended to read:

19050. Except as provided in Section 19054, if the trustee has knowledge of a creditor of the deceased settlor, the trustee shall give notice to the creditor. The notice shall be given as provided in Section 1215. For the purpose of this section, a trustee has knowledge of a creditor of the deceased settlor if the trustee is aware that the creditor has demanded payment from the deceased settlor or the trust estate.

SEC. 15. Section 19051 of the Probate Code is amended to read:

19051. The notice shall be given before expiration of the later of the following times:

(a) Four months after the first publication of notice under Section 19040.

(b) Thirty days after the trustee first has knowledge of the creditor.

SEC. 16. Section 19052 of the Probate Code is amended to read:

19052. The notice shall be in substantially the following form:

NOTICE TO CREDITORS
OF _____

#_____
SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at _____, and mail or deliver a copy to _____, as trustee of the trust dated _____ wherein the decedent was the settlor, at _____, within the later of four months after _____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice is mailed or personally delivered to you, or you must

petition to file a late claim as provided in Section 19103 of the Probate Code. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

(Date of mailing this notice if applicable) (name and address of trustee or attorney)

SEC. 17. Section 19053 of the Probate Code is amended to read:

19053. (a) If the trustee believes that notice to a particular creditor is or may be required by this chapter and gives notice based on that belief, the trustee is not liable to any person for giving the notice, whether or not required by this chapter.

(b) If the trustee fails to give notice required by this chapter, the trustee is not liable to any person for that failure, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

(2) The creditor did not have actual knowledge of the proceedings under Chapter 1 (commencing with Section 19000) sooner than one year after publication of notice to creditors under Section 19040, and payment would have been made on the creditor's claim if the claim had been properly filed.

(3) Within 16 months after the first publication of notice under Section 19040, the creditor did both of the following:

(A) Filed a petition requesting that the court in which the proceedings under Chapter 1 (commencing with Section 19000) were initiated make an order determining the liability of the trustee under this subdivision.

(B) At least 30 days before the hearing on the petition, caused notice of the hearing and a copy of the petition to be served on the trustee in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(c) Nothing in this section affects the liability of the trust estate, if any, for the claim of a creditor, and the trustee is not liable to the extent the claim is paid out of the trust estate.

(d) Nothing in this chapter imposes a duty on the trustee to make a search for creditors of the deceased settlor.

SEC. 18. Section 19100 of the Probate Code is amended to read:

19100. (a) A creditor shall file a claim before expiration of the later of the following times:

(1) Four months after the first publication of notice to creditors under Section 19040.

(2) Sixty days after the date actual notice is mailed or personally delivered to the creditor. This paragraph does not extend the time provided in Section 366.2 of the Code of Civil Procedure.

(b) A reference in another statute to the time for filing a claim means the time provided in paragraph (1) of subdivision (a).

(c) This section shall not be interpreted to extend or toll any other statute of limitations, including that provided by Section 366.2 of the Code of Civil Procedure.

SEC. 19. Section 19103 of the Probate Code is amended to read:

19103. (a) Except as provided in subdivision (b), upon petition by a creditor or a trustee, the court may allow a claim to be filed after expiration of the time for filing a claim provided in Section 19100 if either of the following conditions are satisfied:

(1) The trustee failed to send proper and timely notice to the creditor and the petition is filed within 60 days after the creditor has actual knowledge of the administration of the trust.

(2) The creditor did not have knowledge of the facts giving rise to the existence of the claim more than 30 days prior to the time for filing a claim as provided in Section 19100, and the petition is filed within 60 days after the creditor has actual knowledge of both of the following:

(A) The existence of the facts reasonably giving rise to the existence of the claim.

(B) The administration of the trust.

(b) Notwithstanding subdivision (a), the court shall not allow a claim to be filed under this section more than one year after the date of first publication of notice to creditors under Section 19040. Nothing in this subdivision authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

(c) The court may condition the claim on terms that are just and equitable. The court may deny the claimant's petition if a distribution to trust beneficiaries or payment to general creditors has been made and it appears the filing or establishment of the claim would cause or tend to cause unequal treatment among beneficiaries or creditors.

(d) Regardless of whether the claim is later established in whole or in part, property distributed under the terms of the trust subsequent to an order settling claims under Chapter 2 (commencing with Section 19020) and payments otherwise properly made before a claim is filed under this section are not subject to the claim. Except to the extent provided in Chapter 12 (commencing with Section 19400) and subject to Section 19053, the trustee, distributee, or payee is not liable on account of the prior distribution or payment. This subdivision does not limit the liability of a person who receives a preliminary distribution of property

to restore to the trust an amount sufficient for payment of the beneficiary's proper share of the claim, not exceeding the amount distributed.

SEC. 20. Section 19104 of the Probate Code is amended to read:

19104. (a) Subject to subdivision (b), if a claim is filed within the time provided in this chapter, the creditor may later amend or revise the claim. The amendment or revision shall be filed in the same manner as the claim.

(b) An amendment or revision may not be made to increase the amount of the claim after the time for filing a claim has expired. An amendment or revision to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision. An amendment or revision of a claim may not be made for any purpose after the earlier of the following times:

(1) The time the court makes an order approving settlement of the claim against the deceased settlor under Chapter 2 (commencing with Section 19020).

(2) One year after the date of the first publication of notice to creditors under Section 19040. Nothing in this paragraph authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

SEC. 21. Section 19150 of the Probate Code is amended to read:

19150. (a) A claim may be filed by the creditor or a person acting on behalf of the claimant.

(b) A claim shall be filed with the court and a copy shall be mailed to the trustee. Failure to mail a copy to the trustee does not invalidate a properly filed claim, but any loss that results from the failure shall be borne by the creditor.

SEC. 22. Section 19151 of the Probate Code is amended to read:

19151. (a) A claim shall be supported by the affidavit of the creditor or the person on behalf of the claimant stating:

(1) The claim is a just claim.

(2) If the claim is due, the facts supporting the claim, the amount of the claim, and that all payments on and offsets to the claim have been credited.

(3) If the claim is not due or contingent, or the amount is not yet ascertainable, the facts supporting the claim.

(4) If the affidavit is made by a person other than the creditor, the reason it is not made by the creditor.

(b) The trustee may require satisfactory vouchers or proof to be produced to support the claim. An original voucher may be withdrawn

after a copy is provided. If a copy is provided, the copy shall be attached to the claim.

SEC. 23. Section 19154 of the Probate Code is amended to read:

19154. (a) Notwithstanding any other provision of this part, if a creditor makes a written demand for payment within the time specified in Section 19100, the trustee may waive formal defects and elect to treat the demand as a claim that is filed and established under this part by paying the amount demanded.

(b) Nothing in this section limits application of the doctrines of waiver, estoppel, laches, or detrimental reliance or any other equitable principle.

SEC. 24. Section 19201 of the Probate Code is amended to read:

19201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent's social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act, or Code	Applicable Section
Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
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)	Section 6487.1 of the Revenue and Taxation Code
Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section	Section 7675.1 of the Revenue and Taxation Code

7301) of Division 2 of the Revenue and Taxation Code)	
Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2 of the Revenue and Taxation Code)	Section 8782.1 of the Revenue and Taxation Code
Administration of Franchise and Income Tax Laws (Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code)	Section 19517 of the Revenue and Taxation Code
Cigarette Tax Law (Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code)	Section 30207.1 of the Revenue and Taxation Code
Alcoholic Beverage Tax Law (Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code)	Section 32272.1 of the Revenue and Taxation Code
Unemployment Insurance Code	Section 1090 of the Unemployment Insurance Code
State Hospitals for the Mentally Disordered (Chapter 2 (commencing with Section 7200) of Division 7 of the Welfare and Institutions Code)	Section 7277.1 of the Welfare and Institutions Code
Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code)	Section 9202 of the Probate Code
Waxman-Duffy Prepaid Health Plan Act (Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code)	Section 9202 of the Probate Code

SEC. 25. Section 19202 of the Probate Code is amended to read:

19202. (a) If the trustee knows or has reason to believe that the deceased settlor received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or was the surviving spouse of a person who received that health care, the trustee shall give the State Director of Health Services notice of the death of the deceased settlor or surviving spouse in the manner provided in Section 215.

(b) The director has four months after notice is given in which to file a claim.

SEC. 26. Section 19203 of the Probate Code is amended to read:

19203. If property in the trust is distributed before expiration of the time allowed a public entity to file a claim, the public entity has a claim against the distributees to the full extent of the public entity's claim or each distributee's share of the distributed property, as set forth in Section 19402, whichever is less. The public entity's claim against distributees includes interest at a rate equal to that specified in Section 19521 of the Revenue and Taxation Code, from the date of distribution or the date of filing the claim by the public entity, whichever is later, plus other accruing costs as in the case of enforcement of a money judgment.

SEC. 27. Section 19252 of the Probate Code is amended to read:

19252. The trustee shall have the power to pay any claim or portion of a claim and payment shall constitute allowance of the claim to the extent of the payment. The trustee shall have the power to compromise any claim or portion of a claim. If the trustee or the attorney for the trustee is a creditor of the deceased settlor, the trustee shall have the same powers regarding allowance, rejection, payment, or compromise set forth in this chapter.

SEC. 28. Section 19255 of the Probate Code is amended to read:

19255. (a) A rejected claim is barred as to the part rejected unless the creditor brings an action on the claim or the matter is referred to a referee or to arbitration within the following times, excluding any time during which there is a vacancy in the office of the trustee:

(1) If the claim is due at the time of giving the notice of rejection, 90 days after the notice is given.

(2) If the claim is not due at the time of giving the notice of rejection, 90 days after the claim becomes due.

(b) In addition to any other county in which an action on a rejected claim may be commenced, the action may be commenced in the county or city and county wherein the principal place of administration of the trust is located.

(c) The creditor shall file a notice of the pendency of the action or the referral to a referee or to arbitration with the court clerk in the trust proceeding, together with proof of giving a copy of the notice to the

trustee as provided in Section 1215. Personal service of a copy of the summons and complaint on the trustee is equivalent to the filing and giving of the notice.

(d) Any property distributed by the trustee under the terms of the trust after 120 days from the later of the time the notice of rejection is given or the claim is due and before the notice of pendency of action or referral or arbitration is filed and given, excluding therefrom any time during which there is a vacancy in the office of the trustee, is not subject to the claim. Neither the trustee nor the distributee is liable on account of the distribution.

(e) The prevailing party in the action shall be awarded court costs and, if the court determines that the prosecution or defense of the action against the prevailing party was unreasonable, the prevailing party shall be awarded reasonable litigation expenses, including attorney's fees. For the purpose of this subdivision, the prevailing party shall be the trustee if the creditor recovers an amount equal to or less than the amount of the claim allowed by the trustee, and shall be the creditor if the creditor recovers an amount greater than the amount of the claim allowed by the trustee.

SEC. 29. Section 19304 of the Probate Code is amended to read:

19304. (a) An attachment lien may be converted into a judgment lien on property in the trust estate subject to the attachment lien, with the same priority as the attachment lien, in either of the following cases:

(1) Where the judgment debtor dies after entry of judgment in an action in which the property was attached.

(2) Where a judgment is entered after the death of the defendant in an action in which the property was attached.

(b) To convert the attachment lien into a judgment lien, the levying officer shall, after entry of judgment in the action in which the property was attached and before the expiration of the attachment lien, do one of the following:

(1) Serve an abstract of the judgment, and a notice that the attachment lien has become a judgment lien, on the trustee or other person holding property subject to the attachment lien.

(2) Record or file in any office where the writ of attachment and notice of attachment are recorded or filed an abstract of the judgment and a notice that the attachment lien has become a judgment lien. If the attached property is real property, the plaintiff or the plaintiff's attorney may record the required abstract and notice with the same effect as if recorded by the levying officer.

(c) After the death of the settlor, any members of the deceased settlor's family who were supported in whole or in part by the deceased settlor may claim an exemption provided in Section 487.020 of the Code of

Civil Procedure for property levied on under the writ of attachment if the right to the exemption exists at the time the exemption is claimed. The trustee may claim the exemption on behalf of members of the deceased settlor's family. The claim of exemption may be made at any time before the time the abstract and notice are served, recorded, or filed under subdivision (b) with respect to the property claimed to be exempt. The claim of exemption shall be made in the same manner as an exemption is claimed under Section 482.100 of the Code of Civil Procedure.

CHAPTER 160

An act to amend Sections 11105.04 and 11170 of the Penal Code, relating to child abuse.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11105.04 of the Penal Code is amended to read:

11105.04. (a) A designated Court Appointed Special Advocate (CASA) program may submit to the Department of Justice fingerprint images and related information of employment and volunteer candidates for the purpose of obtaining information as to the existence and nature of any record of child abuse investigations contained in the Child Abuse Central Index, state- or federal-level convictions, or state- or federal-level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial. Requests for federal-level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

(b) When requesting state-level criminal offender record information pursuant to this section, the designated CASA program shall request subsequent arrest notification, pursuant to Section 11105.2 of the Penal Code, for all employment and volunteer candidates.

(c) The department shall respond to the designated CASA program with information as delineated in subdivision (p) of Section 11105 of the Penal Code.

(d) The department shall charge a fee sufficient to cover the cost of processing the requests for state- and federal-level criminal offender record information.

(e) For purposes of this section, a designated CASA program is a local court-appointed special advocate program that has adopted and adheres to the guidelines established by the Judicial Council and which has been designated by the local presiding juvenile court judge to recruit, screen, select, train, supervise, and support lay volunteers to be appointed by the court to help define the best interests of children in juvenile court dependency and wardship proceedings. For purposes of this section, there shall be only one designated CASA program in each California county.

(f) This section shall become operative on July 1, 2004.

SEC. 2. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or

counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse or severe neglect.

(2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report, of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The Department of Justice shall make available to a law enforcement agency, county welfare department, or county probation department that is conducting a child abuse investigation, relevant information contained in the index.

(4) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.

(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(8) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.

(9) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If Child Abuse Central Index information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

(10) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (4), (5), or (8), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse or neglect system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with

Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) (1) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California

identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

(2) No person or agency shall require or request another person to furnish a copy of a record concerning himself or herself, or notification that a record concerning himself or herself exists or does not exist, pursuant to paragraph (1) of this subdivision.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse or neglect, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

CHAPTER 161

An act to amend Section 1203.4 of the Penal Code, and to amend Sections 41501 and 42005 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties

and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars ($120), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual

costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

SEC. 2. Section 41501 of the Vehicle Code is amended to read:

41501. (a) The court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and, after that attendance and pursuant to Section 1803.5 or 42005, the court may dismiss the complaint under the following conditions:

(1) If the offense is alleged to have been committed within 12 months of another offense that was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint. The court may order attendance at a licensed school for traffic violators that offers a program of at least 12 hours of instruction.

(2) If the offense is not alleged to have occurred within 18 months of another offense that was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint if the attendance is at any of the types of schools or programs that the court directed pursuant to Section 42005 at the time of ordering the continuance.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

SEC. 3. Section 42005 of the Vehicle Code is amended to read:

42005. (a) The court may order or permit a person convicted of a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(b) In lieu of adjudicating a traffic offense committed by a person who holds a noncommercial class C, class M1, or class M2 driver's license, and with the consent of the defendant, the court may order the person to attend a licensed traffic violator school, a licensed driving school, or any other court-approved program or driving instruction.

(c) Pursuant to Title 49 of the Code of Federal Regulations, the court may not order or permit a person who holds a class A, class B, or commercial class C driver's license to complete a licensed traffic violator school, a licensed driving school, or any other court-approved program of driving instruction in lieu of adjudicating any traffic offense committed by the holder of a class A, class B, or commercial class C driver's license.

(d) The court may not order or permit a person, regardless of the driver's license class, to complete a licensed traffic violator school, a licensed driving school, or any other court-approved program of driving instruction in lieu of adjudicating an offense if that offense is either of the following:

(1) Occurred in a commercial motor vehicle, as defined in subdivision (b) of Section 15210.

(2) Is a violation of Section 20001, 20002, 23103, 23104, 23105, 23140, 23152, or 23153, or of Section 23103, as specified in Section 23103.5.

(e) Except as otherwise provided in subdivision (f), a person so ordered may choose the traffic violator school the person will attend. The court shall make available to each person subject to that order the current list of traffic violator schools published by the department pursuant to Section 11205.

(f) In those counties where, prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of traffic safety instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools that are under contract with the court or with the county to provide traffic safety instructional services for persons referred pursuant to subdivision (a).

(g) A county described in Section 28023 of the Government Code may continue to provide the program authorized by this section in

accordance with the provisions of current and future contracts as may be amended and approved by the individual courts within that county and the county shall be exempt from state regulations relative to maximum classroom attendance.

(h) Notwithstanding subdivisions (f) and (g), a court in the counties described in those subdivisions shall comply with the prohibitions set forth in subdivisions (c) and (d).

(i) A person who willfully fails to comply with a court order to attend traffic violator school is guilty of a misdemeanor.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 162

An act to add Section 35021.3 to the Education Code, relating to physical education.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to do both of the following through the enactment of this act:

(a) Encourage volunteers from the community to partake in physical recreation activities with pupils after school.

(b) Uphold current agreements between volunteers and schools and not impose any additional regulations upon the volunteers.

SEC. 2. Section 35021.3 is added to the Education Code, to read:

35021.3. (a) A school district or a county office of education may establish a registry of volunteer after school physical recreation instructors and other before and after school programs volunteers.

(b) (1) To be included on a registry established pursuant to this section, a prospective registrant shall submit to a criminal background check pursuant to Section 45125. The prospective registrant shall also submit current contact information to the school district or county office

maintaining the registry and shall update that information whenever the information changes.

(2) A school, school district, or county office of education may contribute funds to pay for all or part of the cost of a criminal background check required of a prospective registrant pursuant to paragraph (1).

(c) A school district or county office maintaining a registry may impose other requirements on prospective registrants, including, but not limited to, certification in cardiopulmonary resuscitation.

(d) Upon approval of the person acting as the coordinator of, or overseeing, the afterschool activities of the school, a school under the jurisdiction of a school district or county office of education maintaining a registry may allow a volunteer registered with the school district or county office to provide instruction in physical recreation to pupils after school hours or provide other services.

(e) This section does not require a school district or county office of education to establish or maintain a registry and does not require a school to use a volunteer from a registry to provide instruction in physical recreation to pupils after school hours or provide other services.

(f) Instruction in physical recreation provided to a pupil by a volunteer pursuant to subdivision (d) shall not be counted toward satisfaction of either the physical education course requirements for graduation from high school pursuant to Section 51225.3 or the number of minutes of instruction in physical education required pursuant to Section 51210, 51222, or 51223, as applicable.

CHAPTER 163

An act to amend Sections 12001, 12073, 12078 and 12132 of the Penal Code, relating to firearms.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12001 of the Penal Code is amended to read:

12001. (a) (1) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in

length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term "handgun" means any "pistol," "revolver," or "firearm capable of being concealed upon the person."

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "handgun," "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a 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 handgun.

(5) He or she acquired that handgun 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 handgun within this state on or after January 1, 1998.

(8) The handgun 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 handgun 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 handgun is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The handgun is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The handgun 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.

(s) As used in this title, "consultant-evaluator" means a consultant or evaluator who, in the course of his or her profession is loaned firearms from a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, for his or her research or evaluation, and has a current certificate of eligibility issued to him or her pursuant to Section 12071.

SEC. 2. Section 12073 of the Penal Code is amended to read:

12073. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to any of the following transactions:

(1) The delivery, sale, or transfer of an unloaded firearm that is not a handgun 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 an unloaded firearm by a dealer to another dealer if that firearm is 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.

(3) The delivery, sale, or transfer of an unloaded firearm by a dealer to a person licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(4) The delivery, sale, or transfer of an unloaded firearm by a dealer who sells, transfers, or delivers the firearm to 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.

(5) The delivery, sale, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler's business.

(6) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer to himself or herself.

(7) The loan of an unloaded firearm by a dealer who also operates a target facility which 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 purpose of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or club or organization, if the firearm is kept at all times within the premises of the target range or on the premises of the club or organization.

(8) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.

(9) The return of an unloaded firearm to the owner of that firearm by a dealer, if the owner initially delivered the firearm to the dealer for service or repair.

(10) The loan of an unloaded firearm by a dealer 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.

(11) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the loan does not exceed 45 days from the date of delivery of the firearm by the dealer to the consultant-evaluator.

(c) A violation of this section is a misdemeanor.

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 the 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.

(4) Subdivision (b) of Section 12071, subdivision (c) 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 to a consultant-evaluator by a person licensed pursuant to Section 12071 if the loan does not exceed 45 days from the date of delivery. At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(A) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator's identity, including, but not limited to, a California driver's license, identification card, or passport.

(B) A photocopy of the consultant-evaluator's valid, current certificate of eligibility.

(C) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

(D) The signature of the consultant-evaluator on a form indicating the date the firearm is loaned and the last day the firearm may be returned.

(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 12132 of the Penal Code is amended to read:

12132. This chapter shall not apply to any of the following:

(a) The sale, loan, or transfer of any firearm pursuant to Section 12082 in order to comply with subdivision (d) of Section 12072.

(b) The sale, loan, or transfer of any firearm that is exempt from the provisions of subdivision (d) of Section 12072 pursuant to any applicable exemption contained in Section 12078, if the sale, loan, or transfer complies with the requirements of that applicable exemption to subdivision (d) of Section 12072.

(c) The sale, loan, or transfer of any firearm as described in paragraph (3) of subdivision (b) of Section 12125.

(d) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Section 12071 for the purposes of the service or repair of that firearm.

(e) The return of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Section 12071 to its owner where that firearm was initially delivered in the circumstances set forth in subdivisions (a), (d), (f) or (j).

(f) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Section 12071 for the purpose of a consignment sale or as collateral for a pawnbroker loan.

(g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.

(h) (1) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes at the time that the act adding this subdivision is enacted, and that fall within the definition of "unsafe handgun" pursuant to paragraph (3) of subdivision (b) of Section 12126 shall be exempt, as provided in paragraphs (2) and (3).

(2) This chapter shall not apply to any of the following pistols, because they are consistent with the significant public purpose expressed in paragraph (1):

MANUFACTURER	MODEL	CALIBER
ANSCHUTZ	FP	.22LR
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
DRULOV	FP	.22LR
GREEN	ELECTROARM	.22LR
HAMMERLI	100	.22LR

HAMMERLI	101	.22LR
HAMMERLI	102	.22LR
HAMMERLI	162	.22LR
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	FP10	.22LR
HAMMERLI	MP33	.22LR
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
MORINI	CM102E	.22LR
MORINI	22M	.22LR
MORINI	32M	.32 S&W LONG
MORINI	CM80	.22LR
PARDINI	GP	.22 SHORT
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	K22	.22LR
PARDINI	MP	.32 S&W LONG
PARDINI	PGP75	.22LR
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
SAKO	FINMASTER	.22LR
STEYR	FP	.22LR
VOSTOK	IZH NO. 1	.22LR
VOSTOK	MU55	.22LR
VOSTOK	TOZ35	.22LR
WALTHER	FP	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(3) The department shall create a program that is consistent with the purpose stated in paragraph (1) to exempt new models of competitive firearms from this chapter. The exempt competitive firearms may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

(i) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production by an authorized participant therein in the course

of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(j) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Section 12071 where the firearm is being loaned by the licensee to a consultant-evaluator.

(k) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Section 12071 where the firearm is being loaned by the licensee to a consultant-evaluator.

(*l*) The return of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Section 12071 where it was initially delivered pursuant to subdivision (k).

SEC. 5. It is the intent of the Legislature that the Department of Justice follow the guidelines set forth by the Bureau of Alcohol, Tobacco, Firearms, and Explosives as set forth in United States Department of the Treasury Revenue Rule 69-248 and the Bureau of Alcohol, Tobacco, and Firearms Industry Circular 72-23, in determining who is a consultant-evaluator for purposes of subdivision (s) of Section 12001 of the Penal Code.

CHAPTER 164

An act to add Section 1374.19 to the Health and Safety Code, and to add Section 10120.2 to the Insurance Code, relating to health care coverage.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that a health care service plan covering dental services, a specialized health care service plan contract covering dental services, and a disability insurer that issues a dental insurance policy, when acting as a secondary plan or insurer, shall pay the lesser of either the amount that it would have paid in the absence of any other dental benefit coverage, or the enrollee's or insured's total out-of-pocket cost payable under the primary dental benefit plan or policy for benefits covered under the secondary plan or policy.

SEC. 2. Section 1374.19 is added to the Health and Safety Code, to read:

1374.19. (a) This section shall only apply to a health care service plan covering dental services or a specialized health care service plan contract covering dental service pursuant to this chapter.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Coordination of benefits" means the method by which a health care service plan covering dental services or a specialized health care service plan contract, covering dental services, and one or more other health care service plans, specialized health care service plans, or disability insurers, covering dental services, pay their respective reimbursements for dental benefits when an enrollee is covered by multiple health care service plans or specialized health care services plan contracts, or a combination thereof, or a combination of health care service plans or specialized health care service plan contracts and disability insurers.

(2) "Primary dental benefit plan" means a health care service plan or specialized health care service plan contract regulated pursuant to this chapter or a dental insurance policy issued by a disability insurer regulated pursuant to Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code that provides an enrollee or insured with primary dental coverage.

(3) "Secondary dental benefit plan" means a health care service plan or specialized health care service plan contract regulated pursuant to this chapter or a dental insurance policy issued by a disability insurer regulated pursuant to Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code that provides an enrollee or insured with secondary dental coverage.

(c) A health care service plan covering dental services or a specialized health care service plan issuing a specialized health care service plan contract covering dental services shall declare its coordination of benefits policy prominently in its evidence of coverage or contract with both enrollee and subscriber.

(d) When a primary dental benefit plan is coordinating its benefits with one or more secondary dental benefits plans, it shall pay the maximum amount required by its contract with the enrollee or subscriber.

(e) A health care service plan covering dental services or a specialized health care service plan contract covering dental services, when acting as a secondary dental benefit plan, shall pay the lesser of either the amount that it would have paid in the absence of any other dental benefit coverage, or the enrollee's total out-of-pocket cost payable under the primary dental benefit plan for benefits covered under the secondary plan.

(f) Nothing in this section is intended to conflict with or modify the way in which a health care service plan covering dental services or a specialized health care service plan covering dental services determines which dental benefit plan is primary and which is secondary in coordinating benefits with another plan or insurer pursuant to existing state law or regulation.

SEC. 3. Section 10120.2 is added to the Insurance Code, to read:

10120.2. (a) This section shall only apply to a disability insurer that issues a dental insurance policy pursuant to this part.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Coordination of benefits" means the method by which a disability insurer and one or more other disability insurers, health care service plans covering dental services, or specialized health care service plans, covering dental services, pay their respective reimbursements for dental benefits when an insured is covered by multiple disability insurers, or a combination of disability insurers and health care service plans or specialized health care service plans.

(2) "Primary dental benefit plan" means a dental insurance policy issued by a disability insurer regulated pursuant to this part or a health care service plan or specialized health care service plan contract regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code that provides an insured or enrollee with primary dental coverage.

(3) "Secondary dental benefit plan" means a dental insurance policy issued by a disability insurer regulated pursuant to this part or a health care service plan or specialized health care service plan contract regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code that provides an insured or enrollee with secondary dental coverage.

(c) A disability insurer that issues a dental insurance policy shall declare its coordination of benefits policy prominently in its evidence of coverage or insurance policy with both insured and policyholder.

(d) When a primary dental benefit plan is coordinating its benefits with one or more secondary dental benefit plans, it shall pay the maximum amount required by its policy with the insured or policyholder.

(e) A disability insurer that issues a dental insurance policy, when acting as a secondary dental benefit plan or insurer, shall pay the lesser of either the amount it would have paid in the absence of any other dental benefit coverage, or the insured's total out-of-pocket cost payable under the primary dental benefit plan for benefits covered under the secondary plan or policy.

(f) Nothing in this section is intended to conflict with or modify the way in which a disability insurer that issues a dental insurance policy determines which dental benefit plan is primary and which is secondary in coordinating benefits with another insurer or plan pursuant to existing state law or regulation.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 165

An act to amend Section 65584.07 of the Government Code, relating to land use.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 65584.07 of the Government Code is amended to read:

65584.07. (a) During the period between adoption of a final regional housing needs allocation until the due date of the housing element update under Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall

submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) (1) The county and cities that have executed transfers of regional housing needs under this section shall amend their housing elements and submit them to the department for review under Section 65585.

(2) All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.

(c) (1) If an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under Section 65584, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

(2) The revised determination shall be made within six months after receipt of the written request, based upon the methodology adopted under Section 65584.04, and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

(d) (1) If an annexation of unincorporated land to a city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under Section 65584, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider

the facts, data, and methodology presented by both parties and make the revised determination.

(2) (A) Except as provided under subparagraph (B), the revised determination shall be made within six months after receipt of the written request, based upon the methodology adopted under Section 65584.04, and shall reallocate a portion of the affected county's share of regional housing needs, if appropriate, to the annexing city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

(B) If the annexed land is subject to a development agreement authorized under subdivision (b) of Section 65865 that was entered into by a city and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement.

(3) A revised determination shall not be made if all of the following apply:

(A) The annexed land was within the city's sphere of influence when the regional housing need was allocated by the council of governments under Section 65584.05 or by the department under Section 65584.06.

(B) The council of governments or the department certifies that the annexed land was fully incorporated into the methodology for purposes of determining the city's share of the regional housing need.

(C) The area covered by the annexation is the same as the area that was incorporated into the methodology.

CHAPTER 166

An act to amend Sections 18050 and 18070.3 of the Health and Safety Code, relating to housing.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18050 of the Health and Safety Code is amended to read:

18050. (a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number.

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of successful completion within the previous six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, distributor, dealer, dealer branch, or salesperson.

(c) The applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d) (1) In conjunction with the license application, the applicant shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of state or federal convictions, and state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) Upon receipt of the fingerprint images and related information described in paragraph (1) from the applicant, the Department of Justice shall forward to the Federal Bureau of Investigation a request for federal summary criminal history information.

(3) Upon receipt of federal summary criminal history information from the Federal Bureau of Investigation, the Department of Justice shall review that information and compile and disseminate a response to the Department of Housing and Community Development pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Housing and Community Development shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for the applicant.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests described in this subdivision.

(e) Upon receipt of a complete application for a license that is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

SEC. 2. Section 18070.3 of the Health and Safety Code is amended to read:

18070.3. (a) When any person (1) who has purchased a manufactured home for a personal or family residential or investment purpose or (2) who has sold a manufactured home for a personal or family residential

or investment purpose, obtains a final judgment against any manufactured home manufacturer, manufactured home dealer or salesperson, or other seller or purchaser, and the judgment is based on the grounds of (1) failure to honor warranties or guarantees, (2) fraud or willful misrepresentation related to any financial provision, (3) fraud or willful misrepresentation of the kind or quality of the product sold or purchased, (4) conversion, (5) any willful violation of any other provision of this part, including the provisions regulating escrow accounts, or regulations adopted pursuant to this part, or (6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985, the person, upon termination of all proceedings, including appeals, may file a claim with the department for an order directing payment out of the fund for the amount of actual and direct loss in the transaction.

(b) If any person either purchases a manufactured home used for a personal or family residential or investment purpose from, or sells a manufactured home used for a personal or family residential or investment purpose to, a person or entity who is or has been the subject of a bankruptcy proceeding, the person may file a claim with the department for an order directing payment out of the fund for the actual and direct loss in the transaction based on (1) the failure to honor warranties or guarantees, (2) fraud or willful misrepresentation related to any financial provision, (3) fraud or willful misrepresentation of the kind or quality of product purchased or sold, (4) conversion, (5) willful violation of any other provision in this part, including the provisions regulating escrow accounts, or (6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985.

(c) (1) The total amount of the claim shall not exceed the amount of actual and direct loss that remains unreimbursed from any source.

(2) The maximum payment ordered under this section, with respect to any one sales transaction on a new or used manufactured home, shall be the amount of the actual and direct loss, as determined by the department based on information in the possession of the department and information provided by the claimant or claimants. In no event shall the actual payment relating to a single transaction exceed seventy-five thousand dollars ($75,000).

(3) Notwithstanding any other provision of this chapter, a person who purchases or sells a manufactured home for an investment purpose may receive payment from the fund for that purpose only once. A person who has received payment from the fund for the purchase or sale of a

manufactured home for an investment purpose shall henceforth be ineligible to make a claim under this chapter, either as a natural person or as a member of a partnership, as an officer or director of a corporation, as a member of a marital community, or in any other capacity.

(d) Prior to payment of any claim against the fund, the claimant or claimants shall have first:

(1) If the claim is based on a final judgment, diligently pursued collection efforts against all the assets of the judgment debtor, or presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but is not limited to, a description of the searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have assets applied to satisfy the judgment.

(2) If the claim is not based on a final judgment, presented evidence satisfactory to the department of either of the following:

(A) That the person or entity is or has been the subject of bankruptcy proceedings and, for purposes of any civil litigation or claims in bankruptcy proceedings, has assigned to the department any interest in the actual and direct loss described in subdivision (c) in the amount that the claimant or claimants recover from the fund.

(B) That the claimant's claim is consistent with this chapter and the claimant had presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but not be limited to, a description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets eligible to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(3) If the claim is based upon a violation of a provision within a warranty provided pursuant to Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, demonstrated evidence satisfactory to the department that the claimant has been denied full compensation or correction under the warranty after the claimant has attempted to exercise his or her rights pursuant to the warranty.

(e) A claim against the fund shall be filed with the department within the following time periods:

(1) If the claim is based on a final judgment, within two years from the date of the judgment.

(2) If the claim is not based on a final judgment, within two years from the termination of bankruptcy proceedings or two years from the date of sale as determined by subdivision (a) of Section 18070.2, or within two years of discovery of the violations causing actual and direct losses pursuant to this article but no longer than five years after the date of sale as determined by subdivision (a) of Section 18070.2, whichever event occurs later.

(f) When any person files a claim for an order directing payment from the fund, the claimant shall mail, by first-class mail, a copy of that claim to the last known address of the judgment debtor. The department shall conduct a review of the application and other pertinent information in its possession, and it may issue an order directing payment out of the fund as provided in subdivisions (a) to (e), inclusive, subject to the limitations of subdivisions (a) to (e), inclusive, if the claimant or claimants show all of the following:

(1) That he or she is not a spouse of the judgment debtor, the bankrupt person or entity, or a person representing the spouse.

(2) That he or she is making an application within the time specified in subdivision (e).

(3) That the claimant has satisfied the applicable requirements of subdivision (d).

(4) That, if the claimant is a seller of a manufactured home used by the seller for personal, family, or household purposes, the claimant made a good faith effort to adequately secure the debt resulting from the sale of the manufactured home and with respect to which the claim is made. For purposes of this paragraph, a good faith effort to secure the debt may be demonstrated by, but shall not be limited to, providing the department with a promissory note signed by the debtor and which, pursuant to the terms thereof, is secured by collateral with a reasonable value at least equal to the debt evidenced by the promissory note.

(g) Upon an order of the department directing that payment be made out of the fund, the Controller is authorized to draw a warrant for the payment of the amount of the claim approved by the department pursuant to this section.

(h) In dispersing moneys from the fund, the department is authorized to give priority to claimants who have attempted to purchase or sell a manufactured home for a personal or family residential purpose.

(i) All claims to the fund that are received on or after January 1, 1993, shall be processed, and a determination made, within one year of submission of a properly completed application.

(j) The department, upon request by a Member of the Legislature, shall provide the following information: the number of claims to the fund, number of claims processed and decided within one year of their application date and submission of a properly completed application, the amount of fund money paid to claimants, and the amount of fund money allocated for the department's costs.

CHAPTER 167

An act to amend Section 56425 of the Government Code, relating to local government.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that

it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

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 168

An act to amend Section 11139.3 of the Government Code, relating to homeless youth, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11139.3 of the Government Code is amended to read:

11139.3. (a) It is the policy of this state and the purpose of this section to facilitate and support the development and operation of housing for homeless youth.

(b) The provision of housing for homeless youth is hereby authorized and shall not be considered unlawful age discrimination, notwithstanding any other provision of law, including, but not limited to, Sections 51, 51.2, and 51.10 of the Civil Code, Sections 11135, 12920, and 12955 of this code, Chapter 11.5 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code, and local housing or age discrimination ordinances.

(c) This section shall not be construed to permit discrimination against families with children.

(d) This section shall occupy the field of regulation of housing for homeless youth by any local public entity, including, but not limited to, a city, county, and city and county.

(e) For purposes of this section, the following definitions shall apply:

(1) "At risk of becoming homeless" means facing eviction or termination of one's current housing situation.

(2) "Homeless youth" means either of the following:

(A) A person who is not older than 24 years of age, and meets one of the following conditions:

(i) Is homeless or at risk of becoming homeless.

(ii) Is no longer eligible for foster care on the basis of age.

(iii) Has run away from home.

(B) A person who is less than 18 years of age who is emancipated pursuant to Part 6 (commencing with Section 7000) of Division 1 of the Family Code and who is homeless or at risk of becoming homeless.

(3) "Housing for homeless youth" means emergency, transitional, or permanent housing tied to supportive services that assist homeless youth in stabilizing their lives and developing the skills and resources they need to make a successful transition to independent, self-sufficient adulthood.

SEC. 2. It is the intent of the Legislature that housing made available for homeless unemancipated minors under this act be consistent with the applicable regulations governing the housing, health, and safety of homeless youth adopted by the Community Care Licensing Division of the State Department of Social Services.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide basic shelter and services to homeless unemancipated minors and end their hardship as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 169

An act to amend Section 20071 of, and to add Section 20070.5 to, the Health and Safety Code, relating to police protection districts.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 20070.5 is added to the Health and Safety Code, to read:

20070.5. (a) A district's police department, police chief, and employees shall have all of the rights, duties, privileges, immunities, obligations, and powers of a municipal police department.

(b) It is the intent of the Legislature that the act adding this section shall not affect the Broadmoor Police Protection District's current reimbursements for any state-mandated local programs.

SEC. 2. Section 20071 of the Health and Safety Code is amended to read:

20071. (a) The district board shall determine the number of employees, if any, necessary for the proper care and protection of the life and property of residents in the district.

(b) Except as provided in subdivision (c), the district board shall appoint all district employees and prescribe their duties and compensation. All of these employees shall hold their positions at the pleasure of the district board.

(c) Notwithstanding subdivision (b), the district board may delegate to the chief of police the authority to appoint and dismiss district employees.

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 are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 170

An act to amend Sections 33382 and 33383 of the Education Code, relating to education.

[Approved by Governor July 30, 2007. Filed with Secretary of State July 30, 2007.]

The people of the State of California do enact as follows:

SECTION 1. 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 Superintendent shall request input from the American Indian Education Oversight Committee on amendments and updates to the 1975 guidelines and the committee may provide input to the Superintendent prior to the submission of the guidelines to the State Board.

SEC. 2. 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. Funding for existing centers or a 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 degree of commitment of the applicant 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 community of the applicant.

(6) Existing centers shall have priority based upon the demonstrated impact of each program on pupils, their parents or legal guardians, 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 an 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 legal 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) 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 application of the existing center

or approve a new application to establish a California American Indian education center.

(g) (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 an 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).